

undermines the ability to make population-level estimates.⁹ The U.S. Census Bureau is fielding the Household Pulse Survey as a part of their Experimental Data Series.¹⁰ We continue to learn about the Household Pulse Survey methods and its promise and limitations as a data source to study the population size and characteristics of transgender people in the U.S.¹¹ Although they do not yet collect data about gender identity in all U.S. states, the CDC's BRFSS and YRBS currently provide the best available data to generate estimates of the number of adults and youth who identify as transgender.

In 2016 and 2017, the Williams Institute used data from the CDC's 2014-15 BRFSS to estimate the number of adults (ages 18 and older) and youth (ages 13 to 17) who identify as transgender.¹² Since then, a total of 43 states have used the BRFSS optional gender identity module for at least one year, providing more years of data from more states since these initial estimates. Additionally, since 2017, 15 states have included a question to identify transgender youth in their YRBS statewide questionnaire.¹³ These more recent data from the BRFSS and the YRBS provide an opportunity to update our prior population estimates of the number of adults and youth who identify as transgender in the U.S. In this report, we describe our updated estimates, including estimates regarding gender, age, and race/ethnicity at the national level and age and race/ethnicity at the regional and state levels. A detailed description of our methods and accompanying appendix can be found at the end of this report.

⁹From 2016 through the second quarter of 2019, questions pertaining to sexual orientation and gender identity were included in the NCVS. In 2019, the Bureau of Justice Statistics determined that the sexual orientation and gender identity questions would be administered only to those age 16 or older who reported violent victimization (not to all respondents). More recently, BJS has determined that the sexual orientation and gender identity items will be reinstated and administered to the original universe of all persons age 16 or older beginning in January 2022. See Bureau of Justice Statistics. (2021). *NCVS OMB Supporting Statement Part A*. Office of Management and Budget, Office of Information and Regulatory Affairs. https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202109-1121-002; Office of Information and Regulatory Affairs. (2021). *OIRA Conclusion, OMB Control No: 1121-0111*. Office of Management and Budget. https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202109-1121-002#.

¹⁰United States Census Bureau. (2021). *Measuring Household Experiences during the Coronavirus Pandemic*. <https://www.census.gov/data/experimental-data-products/household-pulse-survey.html>.

¹¹United States Census Bureau. (2021). *Source of the Data and Accuracy of the Estimates for the Household Pulse Survey – Phase 3.2*. https://www2.census.gov/programs-surveys/demo/technical-documentation/hhp/Phase3-2_Source_and_Accuracy_Week39.pdf; Jesdale, B.M. (2021). *Counting Gender Minority Populations in the Household Pulse Survey (The AGENID=2 Memo)*. National LGBT Cancer Network. <https://cancer-network.org/wp-content/uploads/2021/10/Counting-GM-People-in-Pulse-Data.pdf>.

¹²Flores, A.R., Herman, J.L., Gates, G.J., & Brown, T.N.T. (2016). *How Many Adults Identify as Transgender in the United States?* Los Angeles, CA: The Williams Institute; Herman, J.L., Flores, A.R., Brown, T.N.T., Wilson, B.D.M., & Conron, K.J. (2017). *Age of Individuals who Identify as Transgender in the United States*. Los Angeles, CA: The Williams Institute. Those who report that they consider themselves to be transgender in the BRFSS may identify with and use different gender identity terms outside the survey context, such as man, woman, and nonbinary.

¹³The count of 15 states is based on authors' original analysis of YRBS data.

FINDINGS

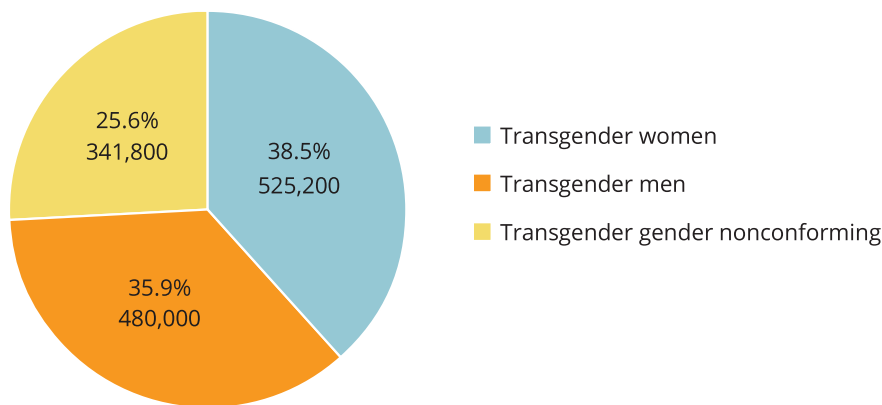
NATIONAL POPULATION ESTIMATES BY GENDER IDENTITY, AGE, AND RACE/ETHNICITY

Nationally, we estimate that 0.6% of those ages 13 and older identify as transgender in the United States, which is about 1.6 million individuals based on current U.S. population size. Among adults, 0.5% (over 1.3 million adults) identify as transgender. Among youth ages 13 to 17, 1.4% (about 300,000 youth) identify as transgender. The BRFSS and YRBS data allow us to further describe gender identity for adults, age categories for individuals ages 13 and older, and race/ethnicity separately for youth and adults.

Gender Identity

The BRFSS optional gender identity module includes a follow-up question of adults who identify as transgender to further describe their gender identity.¹⁴ Based on that follow-up question, we find that of adults who identify as transgender, 38.5% (515,200) are transgender women, 35.9% (480,000) are transgender men, and 25.6% (341,800) reported they are gender nonconforming. It is possible that transgender adults who identify as nonbinary may have reported their gender in the BRFSS as gender nonconforming. A recent study estimated that nearly one-third of transgender adults identify as nonbinary, which is similar to our finding of 25.6%.¹⁵ The YRBS does not include a follow-up question to allow respondents to further describe their gender identity. Therefore, we are unable to provide a more detailed description of gender identities among youth.

Figure 1. Gender identity of adults who identify as transgender in the U.S.



¹⁴The BRFSS questionnaire asks, "Do you consider yourself to be transgender?" If the answer is yes, the respondent is then asked, "Do you consider yourself to be 1. male-to-female, 2. female-to-male, or 3. gender nonconforming?" We categorize those who answered "male-to-female" as transgender women, those who answered "female-to-male" as transgender men, and those who answered "gender nonconforming" as gender nonconforming.

¹⁵Wilson, B.D.M & Meyer, I.H. (2021). *Nonbinary LGBTQ Adults in the United States*. Los Angeles, CA: The Williams Institute.

Age

We describe the age of individuals who identify as transgender in two ways: the percentage of each age group that identifies as transgender and the age distribution of the transgender-identified population compared to the age distribution of the U.S. population. When looking at the percentage in each age group that identifies as transgender, those in the youngest age groups appear to have a higher percentage of those who identify as transgender. For instance, 1.4% of those ages 13 to 17 identify as transgender whereas 0.3% of those ages 65 and older identify as transgender. While these age group differences appear to be only statistically significant between the oldest and youngest age groups, this age trend among transgender individuals is consistently found in studies using population-based samples.¹⁶

Table 1. Percent of each age group that identifies as transgender in the U.S.

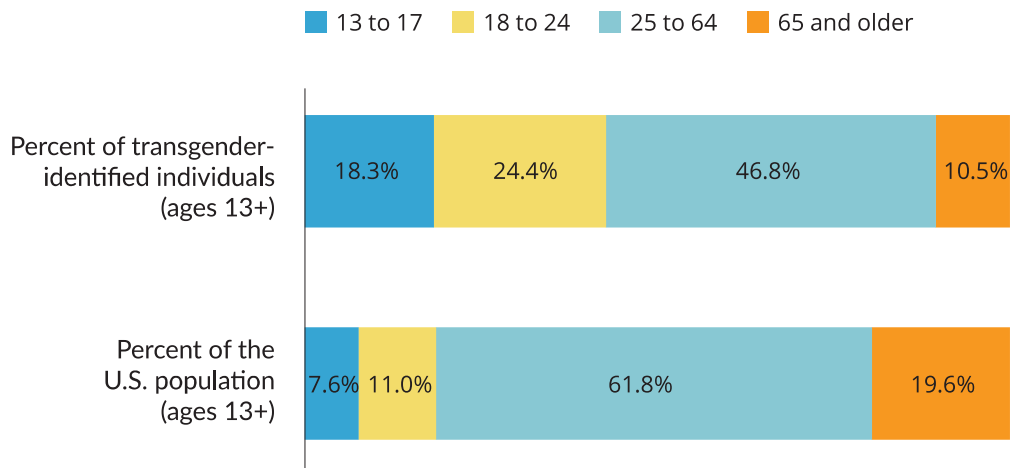
	PERCENT	NUMBER
13 to 17	1.4%	300,100
18 to 24	1.3%	398,900
25 to 64	0.5%	766,500
65 and older	0.3%	171,700
13 and older	0.6%	1,637,200

When looking at the age distribution of those who identify as transgender, it appears that the age distribution of transgender-identified individuals (ages 13 and older) is younger compared to the U.S. population. For instance, those ages 13 to 17 comprise 18.3% of transgender-identified individuals (ages 13 and older), whereas that age group comprises 7.6% of the U.S. population (ages 13 and older). This age trend is consistent with prior research that has found transgender individuals have a lower mean age than cisgender individuals.¹⁷

¹⁶ Jones, J. M. (2022). *LGBT Identification in U.S. Ticks up to 7.1%*. Gallup. <https://news.gallup.com/poll/389792/lgbt-identification-ticks-up.aspx>; Herman, J.L., Flores, A.R., Brown, T.N.T., Wilson, B.D.M., & Conron, K.J. (2017). *Age of Individuals who Identify as Transgender in the United States*. Los Angeles, CA: The Williams Institute.; Feldman, J.L., Luhur, W.E., Herman, J.L., Poteat, T., Meyer, I.H. (2021). Health and health care access in the US transgender population health (TransPop) survey. *Andrology*, 9, 1707– 1718. <https://doi.org/10.1111/andr.13052>.

¹⁷Feldman, J.L., Luhur, W.E., Herman, J.L., Poteat, T., Meyer, I.H. (2021). Health and health care access in the US transgender population health (TransPop) survey. *Andrology*, 9, 1707– 1718. <https://doi.org/10.1111/andr.13052>; Andrew R. Flores, Ilan H. Meyer, Lynn Langton, Jody L. Herman. (2021). Gender Identity Disparities in Criminal Victimization: National Crime Victimization Survey, 2017–2018. *American Journal of Public Health* 111(4), 726-729; Statistics Canada. (2022). Canada is the first country to provide census data on transgender and non-binary people. *The Daily*. <https://www150.statcan.gc.ca/n1/daily-quotidien/220427/dq220427b-eng.htm?HPA=1>.

Figure 2. Age distribution among those who identify as transgender and among the U.S. population (ages 13 and older)



Race/Ethnicity

Similar to age, we look at race and ethnicity of individuals who identify as transgender in two different ways: the percentage of each race/ethnicity group that identifies as transgender and the racial and ethnic distribution of the transgender-identified population compared to the racial and ethnic distribution of the U.S. population. We stratify this analysis by age, separately describing the race/ethnicity of youth and adults. Tables 2 and 3 describe the percentage of each racial/ethnic group that identifies as transgender, along with the population estimate. Differences between racial/ethnic groups are not statistically significant, but our findings do reflect prior research with population-based samples that have found that Latinx people, American Indian or Alaska Native, and biracial/multiracial groups appear more likely than White people to identify as transgender.¹⁸

Table 2. Percent of each racial/ethnic group that identifies as transgender in the U.S., among adults (ages 18 and older)

	PERCENT	NUMBER
White	0.5%	731,200
Black	0.6%	173,500
Asian	0.5%	77,300
AIAN	0.9%	14,500
Latinx	0.7%	289,700
Biracial, Multiracial, or Other Race/Ethnicity	1.0%	50,900

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

¹⁸Feldman, J.L., Luhur, W.E., Herman, J.L., Poteat, T., Meyer, I.H. (2021). Health and health care access in the US transgender population health (TransPop) survey. *Andrology*, 9, 1707– 1718. <https://doi.org/10.1111/andr.13052>; Meyer, I. H., Brown, T. N., Herman, J. L., Reisner, S. L., & Bockting, W. O. (2017). Demographic Characteristics and Health Status of Transgender Adults in Select US Regions: Behavioral Risk Factor Surveillance System, 2014. *American Journal of Public Health*, 107(4), 582–589. <https://doi.org/10.2105/AJPH.2016.303648>.

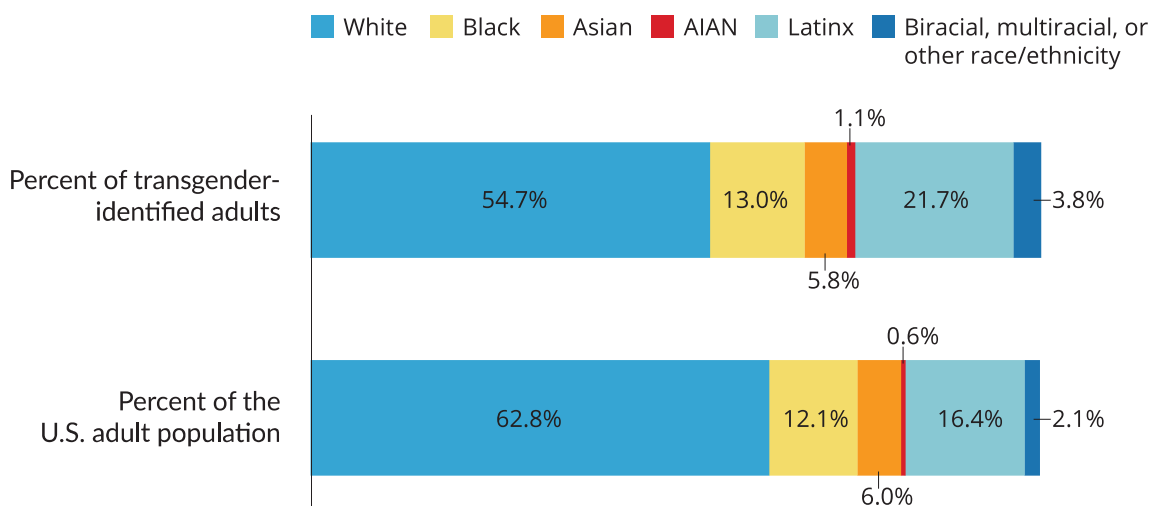
Table 3. Percent of each racial/ethnic group that identifies as transgender in the U.S., among youth (ages 13 to 17)

	PERCENT	NUMBER
White	1.3%	138,800
Black	1.4%	39,600
Asian	1.0%	10,800
AIAN	1.8%	3,000
Latinx	1.8%	92,900
Biracial, Multiracial, or Other Race/Ethnicity	1.5%	15,000

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

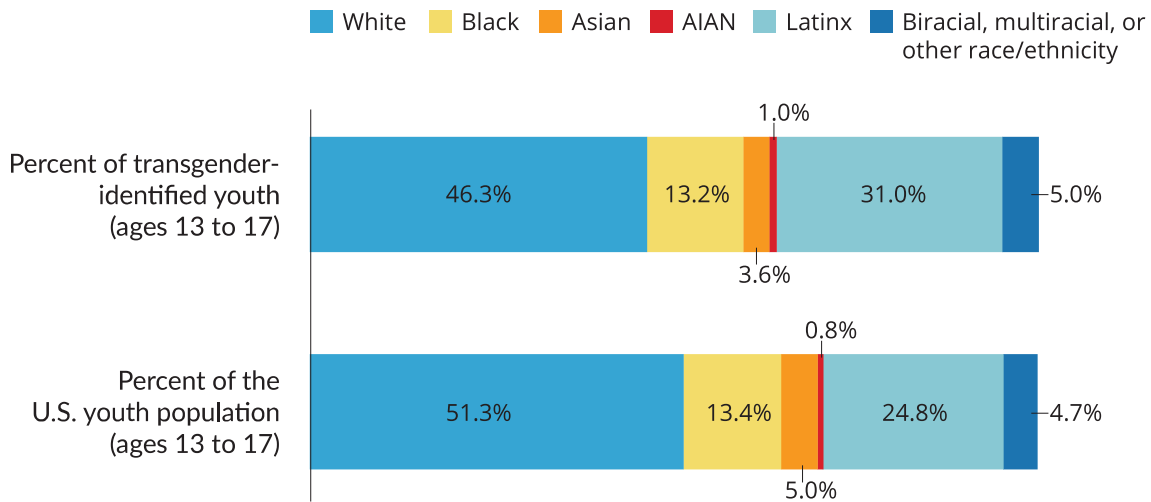
The racial and ethnic distribution of adults and youth appear generally similar to the racial/ethnic distribution of the U.S. population. However, transgender-identified youth and adults appear more likely to report being Latinx and less likely to report being White, as compared to the U.S. population (see Figures 3 and 4). As described above, this trend is in keeping with prior research.¹⁹

Figure 3. Race/ethnicity of adults who identify as transgender and of the U.S. population (ages 18 and older)



¹⁹Ibid.

Figure 4. Race/ethnicity of youth who identify as transgender and of the U.S. population (ages 13-17)



REGIONAL AND STATE POPULATION ESTIMATES, BY AGE AND RACE

Adults and youth who identify as transgender in the U.S. reside in all 50 states and the District of Columbia. Table 4 describes the percentage of each age group that identifies as transgender, and the population estimate for each, in the four U.S. regions, and in each state within each region. Overall, for youth ages 13 to 17, we find that 1.4% identify as transgender, which is about 300,000 youth. Our estimates of youth ages 13 to 17 who identify as transgender are similar across U.S. regions, ranging from 1.8% in the Northeast to 1.2% in the Midwest. At the state level, our estimates range from 3.0% of youth ages 13 to 17 identifying as transgender in New York to 0.6% in Wyoming.²⁰ Among all adults, we find that 0.5%, or over 1.3 million, identifies as transgender. Our estimates of adults in U.S. regions who identify as transgender range from 0.6% in the Northeast to 0.4% in the Midwest. At the state level, our estimates range from 0.9% of adults identifying as transgender in North Carolina to 0.2% in Missouri.²¹

²⁰Appendix Table A4 describes 95% credible intervals for our national, regional, and state level estimates for youth and adults by age group. This table can serve as a reference to help determine if estimates across regions and states appear to be significantly different from each other. For instance, the percent of youth in New York who identify as transgender (3.0%) is significantly higher than 10 other states, meaning the upper bound estimate in these 10 states is lower than the lower bound estimate for New York. For adults, the percent that identifies as transgender in North Carolina (0.9%) is significantly higher than 19 other states.

²¹The District of Columbia is not included in this range for states. DC had a notably high percentage of transgender-identified adults (0.92%), but is considered an outlier compared to the rest of the U.S. states due to its unique geographic (urban) and demographic profile.

Table 4. Regional and state-level estimates of those who identify as transgender in the U.S. population by age group (ages 13 and older)

	13-17		18-24		25-64		65+		ALL ADULTS 18+	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
United States	1.43%	300,100	1.31%	398,900	0.45%	766,500	0.32%	171,700	0.52%	1,337,100
WEST	1.62%	81,700	1.14%	82,600	0.51%	209,400	0.30%	36,400	0.54%	328,500
Alaska	1.23%	500	1.51%	1,000	0.65%	2,500	0.34%	300	0.70%	3,900
Arizona	1.54%	7,300	1.92%	13,000	0.71%	25,200	0.23%	3,000	0.73%	41,200
California	1.93%	49,100	0.70%	25,500	0.50%	105,100	0.34%	19,500	0.49%	150,100
Colorado	1.14%	4,200	2.09%	10,800	0.51%	15,800	0.06%	500	0.60%	27,000
Hawaii	2.15%	1,700	1.50%	1,800	0.66%	4,800	0.44%	1,200	0.70%	7,800
Idaho	0.76%	1,000	0.92%	1,500	0.51%	4,500	0.36%	1,000	0.52%	7,000
Montana	0.78%	500	0.70%	700	0.47%	2,500	0.13%	300	0.41%	3,400
Nevada	1.67%	3,300	0.87%	2,200	0.35%	5,700	0.04%	200	0.34%	8,100
New Mexico	2.62%	3,700	0.81%	1,600	0.62%	6,500	0.73%	2,800	0.67%	10,900
Oregon	1.18%	2,900	1.57%	5,700	0.52%	11,500	0.35%	2,700	0.59%	19,900
Utah	0.83%	2,100	1.34%	4,800	0.47%	7,300	0.43%	1,600	0.60%	13,700
Washington	1.09%	5,000	2.01%	13,300	0.41%	16,900	0.26%	3,200	0.56%	33,300
Wyoming	0.56%	200	1.21%	700	0.41%	1,200	0.29%	300	0.48%	2,100
MIDWEST	1.24%	54,500	1.27%	81,200	0.34%	119,900	0.26%	30,100	0.44%	231,200
Illinois	1.66%	13,700	1.94%	22,300	0.24%	16,300	0.24%	4,800	0.44%	43,400
Indiana	0.91%	4,100	1.18%	7,800	0.45%	15,100	0.27%	2,900	0.50%	25,800
Iowa	1.07%	2,100	0.45%	1,400	0.28%	4,400	0.23%	1,200	0.29%	7,100
Kansas	1.05%	2,100	1.92%	5,700	0.35%	5,000	0.34%	1,600	0.56%	12,400
Michigan	1.41%	8,900	1.13%	10,800	0.38%	19,600	0.14%	2,600	0.42%	33,000
Minnesota	0.94%	3,500	1.62%	7,900	0.52%	15,200	0.32%	2,900	0.60%	26,000
Missouri	0.75%	2,900	0.71%	3,900	0.07%	2,100	0.33%	3,500	0.20%	9,500
Nebraska	0.94%	1,200	1.12%	2,100	0.37%	3,600	0.28%	900	0.45%	6,600
North Dakota	1.16%	500	1.02%	800	0.36%	1,400	0.26%	300	0.43%	2,500
Ohio	1.15%	8,500	1.14%	12,200	0.45%	27,100	0.35%	7,200	0.51%	46,500
South Dakota	0.90%	500	1.12%	900	0.37%	1,600	0.27%	400	0.44%	2,900
Wisconsin	1.75%	6,400	0.99%	5,300	0.29%	8,500	0.17%	1,700	0.34%	15,500
SOUTH	1.25%	102,200	1.33%	154,500	0.45%	295,500	0.36%	73,600	0.54%	523,600
Alabama	1.08%	3,400	1.18%	5,400	0.42%	10,400	0.30%	2,500	0.48%	18,400
Arkansas	0.88%	1,800	3.59%	9,800	0.24%	3,500	0.58%	2,900	0.70%	16,200
Delaware	0.96%	600	2.36%	2,000	0.69%	3,400	0.49%	900	0.82%	6,300
District of Columbia	2.11%	600	2.21%	1,600	0.77%	3,200	0.56%	500	0.92%	5,300
Florida	1.32%	16,200	1.28%	22,400	0.49%	53,900	0.41%	18,600	0.55%	94,900
Georgia	1.18%	8,500	1.24%	12,700	0.48%	26,800	0.61%	9,200	0.60%	48,700
Kentucky	0.68%	2,000	1.27%	5,300	0.43%	9,900	0.32%	2,400	0.51%	17,700
Louisiana	1.30%	4,000	0.79%	3,300	0.45%	10,700	0.23%	1,700	0.44%	15,700
Maryland	2.08%	8,000	1.90%	10,100	0.38%	12,200	0.18%	1,700	0.51%	24,000
Mississippi	1.20%	2,400	0.81%	2,400	0.37%	5,500	0.33%	1,600	0.42%	9,600

	13-17		18-24		25-64		65+		ALL ADULTS 18+	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
North Carolina	1.27%	8,500	2.46%	24,000	0.73%	38,400	0.53%	8,900	0.87%	71,300
Oklahoma	1.00%	2,600	2.52%	9,300	0.44%	8,500	0.19%	1,100	0.63%	18,900
South Carolina	1.14%	3,700	0.87%	4,100	0.43%	11,300	0.38%	3,500	0.47%	19,000
Tennessee	0.74%	3,100	1.95%	11,700	0.44%	15,000	0.09%	1,000	0.52%	27,700
Texas	1.42%	29,800	0.71%	19,800	0.42%	61,500	0.31%	11,600	0.43%	92,900
Virginia	1.18%	6,200	1.11%	8,800	0.40%	18,000	0.34%	4,600	0.47%	31,400
West Virginia	0.68%	700	1.18%	1,800	0.36%	3,200	0.22%	800	0.40%	5,700
NORTHEAST	1.82%	61,700	1.58%	80,600	0.48%	141,600	0.32%	31,600	0.57%	253,800
Connecticut	1.64%	3,700	1.35%	4,600	0.45%	8,300	0.38%	2,400	0.54%	15,300
Maine	1.59%	1,200	1.44%	1,600	0.47%	3,300	0.34%	1,000	0.53%	5,900
Massachusetts	1.44%	5,900	2.30%	15,700	0.44%	16,100	0.46%	5,400	0.67%	37,100
New Hampshire	0.84%	700	1.53%	1,900	0.48%	3,500	0.34%	900	0.57%	6,300
New Jersey	0.67%	3,800	1.67%	12,700	0.52%	24,800	0.38%	5,600	0.62%	43,100
New York	3.00%	34,800	1.37%	24,100	0.46%	47,600	0.31%	10,100	0.53%	81,800
Pennsylvania	1.30%	10,000	1.50%	16,900	0.51%	33,400	0.24%	5,600	0.55%	56,000
Rhode Island	1.93%	1,200	2.11%	2,300	0.54%	3,000	0.21%	400	0.66%	5,700
Vermont	1.33%	500	1.26%	800	0.48%	1,500	0.29%	400	0.53%	2,700

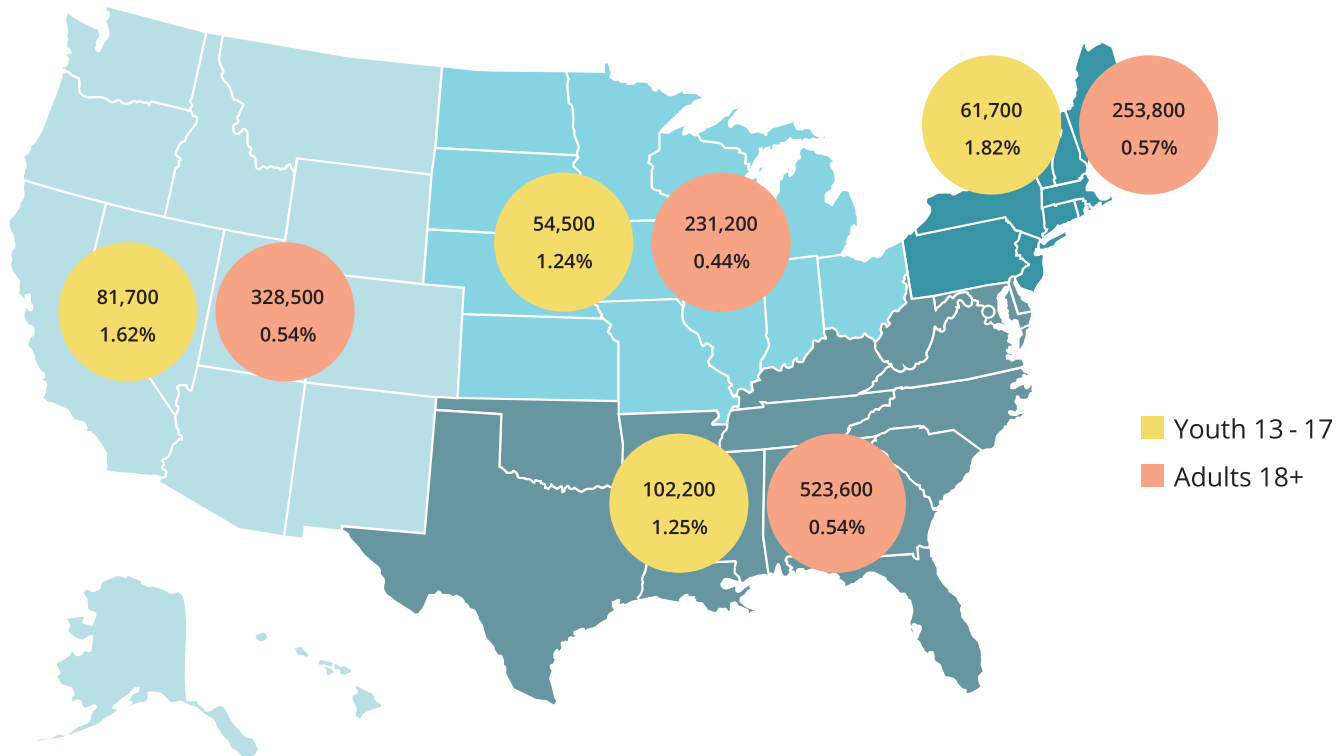


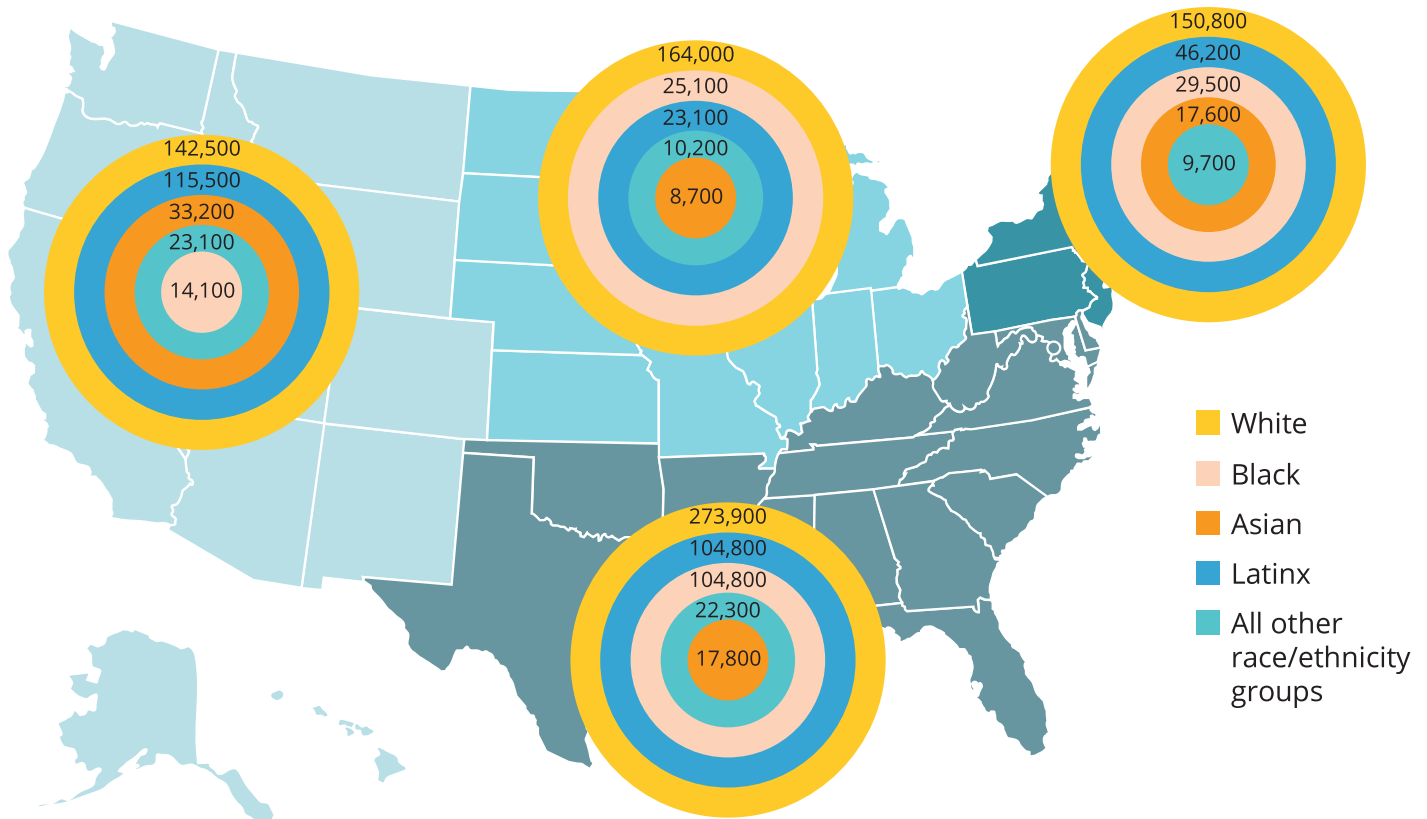
Table 5 describes the percentage and the population estimate of each racial/ethnic group that identifies as transgender nationally, in the four U.S. regions, and in each state within each region. Due to sample size limitations, our estimates are limited only to adults. Furthermore, we must combine into one heterogeneous category all those reporting a race or ethnicity other than White, Black, Asian, and Latinx, which includes Native American, Alaska Native, Native Hawaiian, Pacific Islander, biracial, multiracial, and individuals with other racial/ethnic identities.

Table 5. Regional and state-level estimates of those who identify as transgender in the U.S. population by race/ethnicity (adults ages 18+ only)

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
United States	0.46%	731,200	0.56%	173,500	0.50%	77,300	0.69%	289,700	0.94%	65,400
WEST	0.45%	142,500	0.51%	14,100	0.48%	33,200	0.70%	115,500	0.91%	23,100
Alaska	0.49%	1,900	0.70%	100	0.67%	300	0.78%	300	1.12%	1,200
Arizona	0.52%	18,700	0.66%	1,800	0.63%	1,400	0.91%	15,600	1.17%	3,700
California	0.40%	44,200	0.50%	8,000	0.47%	20,900	0.70%	69,900	0.74%	7,100
Colorado	0.50%	16,200	0.64%	1,100	0.61%	1,000	0.86%	7,500	1.04%	1,300
Hawaii	0.50%	1,400	0.59%	100	0.58%	3,500	0.80%	800	1.08%	1,900
Idaho	0.46%	5,300	0.63%	<100	0.49%	100	0.76%	1,200	0.82%	300
Montana	0.38%	2,800	0.57%	<100	0.38%	<100	0.62%	200	0.68%	400
Nevada	0.39%	3,300	0.50%	700	0.45%	700	0.69%	2,900	0.54%	500
New Mexico	0.47%	3,200	0.63%	200	0.56%	200	0.76%	5,800	0.95%	1,500
Oregon	0.53%	13,700	0.65%	400	0.64%	1,100	0.89%	3,300	1.02%	1,400
Utah	0.54%	9,800	0.66%	100	0.67%	500	0.82%	2,400	1.06%	800
Washington	0.49%	20,300	0.61%	1,400	0.58%	3,400	0.86%	5,400	0.98%	2,900
Wyoming	0.44%	1,700	0.58%	<100	0.59%	<100	0.75%	300	0.85%	100
MIDWEST	0.40%	164,000	0.48%	25,100	0.48%	8,700	0.64%	23,100	0.87%	10,200
Illinois	0.40%	23,900	0.49%	6,300	0.43%	2,400	0.65%	9,400	0.85%	1,400
Indiana	0.46%	19,500	0.53%	2,500	0.56%	700	0.70%	2,200	1.03%	1,000
Iowa	0.31%	5,700	0.41%	300	0.41%	200	0.53%	600	0.56%	200
Kansas	0.49%	8,600	0.60%	800	0.61%	400	0.82%	1,900	1.04%	700
Michigan	0.40%	23,400	0.48%	4,700	0.46%	1,100	0.66%	2,200	0.79%	1,500
Minnesota	0.53%	19,300	0.71%	1,700	0.72%	1,500	0.88%	1,800	1.27%	1,600
Missouri	0.34%	7,300	0.41%	1,200	0.41%	200	0.52%	500	0.37%	400
Nebraska	0.40%	4,800	0.54%	400	0.53%	200	0.71%	1,000	0.89%	300
North Dakota	0.39%	2,000	0.49%	100	0.59%	100	0.74%	200	0.70%	200
Ohio	0.48%	35,400	0.56%	6,000	0.53%	1,200	0.70%	2,100	1.03%	1,900
South Dakota	0.39%	2,200	0.52%	100	0.61%	100	0.63%	100	0.82%	500
Wisconsin	0.35%	11,900	0.48%	1,100	0.47%	600	0.56%	1,300	0.65%	600
SOUTH	0.48%	273,900	0.58%	104,800	0.51%	17,800	0.66%	104,800	0.99%	22,300
Alabama	0.44%	11,200	0.54%	5,400	0.46%	200	0.72%	900	0.80%	600
Arkansas	0.55%	11,200	0.62%	2,600	0.72%	300	0.89%	1,500	1.16%	600
Delaware	0.65%	3,600	0.81%	1,400	0.70%	200	1.15%	800	1.77%	300
District of Columbia	0.77%	1,800	0.99%	2,400	0.98%	300	1.11%	600	1.42%	200
Florida	0.46%	44,300	0.62%	15,100	0.55%	2,700	0.69%	29,500	0.97%	3,300
Georgia	0.53%	23,700	0.61%	15,700	0.57%	2,000	0.84%	5,800	1.04%	1,600
Kentucky	0.49%	14,500	0.55%	1,500	0.53%	300	0.76%	800	1.09%	600
Louisiana	0.43%	8,700	0.51%	5,200	0.50%	300	0.60%	1,000	0.71%	500
Maryland	0.46%	11,200	0.52%	7,200	0.49%	1,500	0.75%	3,200	0.88%	1,100
Mississippi	0.40%	5,100	0.47%	3,800	0.43%	100	0.65%	400	0.77%	200

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER
North Carolina	0.71%	41,400	0.84%	15,700	0.80%	2,100	1.17%	8,200	1.59%	3,800
Oklahoma	0.53%	10,900	0.60%	1,300	0.66%	500	0.88%	2,400	1.00%	3,900
South Carolina	0.43%	11,300	0.53%	5,400	0.49%	300	0.69%	1,300	0.90%	600
Tennessee	0.48%	19,400	0.56%	4,900	0.55%	600	0.81%	1,900	0.96%	900
Texas	0.36%	32,500	0.44%	10,600	0.40%	4,300	0.58%	42,800	0.69%	2,700
Virginia	0.43%	17,900	0.51%	6,300	0.47%	2,100	0.66%	3,700	0.92%	1,500
West Virginia	0.42%	5,200	0.44%	200	0.40%	<100	0.55%	100	0.75%	100
NORTHEAST	0.51%	150,800	0.61%	29,500	0.58%	17,600	0.78%	46,200	1.04%	9,700
Connecticut	0.46%	9,100	0.62%	1,700	0.55%	700	0.76%	3,200	0.96%	600
Maine	0.52%	5,300	0.63%	100	0.74%	100	0.80%	100	0.99%	200
Massachusetts	0.58%	23,900	0.74%	2,800	0.73%	2,800	0.96%	5,800	1.21%	1,800
New Hampshire	0.54%	5,500	0.63%	100	0.60%	200	0.86%	300	1.18%	200
New Jersey	0.49%	20,800	0.61%	5,800	0.52%	3,800	0.79%	11,200	1.11%	1,400
New York	0.46%	39,800	0.56%	12,100	0.55%	7,500	0.70%	19,100	0.92%	3,300
Pennsylvania	0.50%	40,200	0.61%	6,500	0.58%	2,100	0.78%	5,300	1.09%	1,800
Rhode Island	0.57%	3,700	0.71%	300	0.72%	200	0.89%	1,100	1.14%	300
Vermont	0.51%	2,400	0.67%	<100	0.55%	<100	0.91%	100	1.04%	100

Note: White, Black, and Asian are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. All other race/ethnicity groups are non-Hispanic.



CONCLUSION

Based on our estimates from 2016-2017 and the current report, the percentage and number of adults who identify as transgender has remained steady over time in the United States. The availability of the YRBS data has given us a more direct look into youth gender identity and provides better data than was previously available to us for estimating the size and characteristics of the youth population. Youth ages 13 to 17 comprise a larger share of the transgender-identified population than we previously estimated, currently comprising about 18% of the transgender-identified population in the U.S., up from 10% previously. Our findings regarding gender, age, and race/ethnicity are in keeping with existing research, which has found that nonbinary adults comprise nearly a third of transgender adults, transgender people are on average younger than the general population, and transgender people are more likely to report being Latinx and less likely to report being White.

Our estimates described in this report were made possible by advances in gender identity data collection over the past five years. More states have included the BRFSS optional gender identity module over the years and the availability of YRBS data has given us a direct look into youth gender identity. In this study, we were also able, for the first time, to produce national and state-level population estimates for Asian adults and national population estimates for American Indian and Alaska Native adults who identify as transgender. Despite these advances, our study required the use of advance statistical modeling in order to produce our estimates. This is because several states do not include the optional gender identity module in their BRFSS surveys. Other surveys that identify transgender respondents are still emerging as potential data sources for similar population estimates, like Household Pulse Survey, or do not yet exist. To improve the availability of data about the U.S. transgender population, and negate the need for advanced statistical modeling to overcome limitations in the current data, the CDC should make the BRFSS gender identity module part of the core survey rather than an optional module. Furthermore, the federal government should include questions to identify transgender people in all federal surveys. Visibility for the transgender people in our federal surveys would further bring to light the characteristics, experiences, well-being, and needs of the transgender population in the United States.

METHODS

The BRFSS collects demographic and health information from representative samples at the state level. In addition to a core questionnaire provided by the CDC that coordinates the BRFSS, states can add optional modules that ask unique sets of questions. One module asks about sexual orientation and gender identity (SOGI). Similarly, the YRBS allows states to include a module that asks about SOGI. The BRFSS module asks, “Do you consider yourself to be transgender?” with response options, “Yes; No; Don’t know/not sure” or respondents could refuse to answer. If a respondent expresses confusion, then interviewers provide definitions of transgender and/or gender nonconforming. If respondents affirmatively answer the question, they are then asked if they consider themselves to be male-to-female; female-to-male; or gender nonconforming. The YRBS module asks, “Some people describe themselves as transgender when their sex at birth does not match the way they think or feel about their gender. Are you transgender?” with response options, “No; Yes, I am transgender; Not sure if I am transgender, Don’t know what the question is asking.”

We pool the 2017-2020 BRFSS surveys; 41 states used the SOGI module one or more times in this timeframe ($n = 1,707,678$). We pool the 2017 and 2019 YRBS where 15 states used the module at least one during this time period ($n = 372,214$). We analyze adults and youth separately considering they come from different sources. All respondents who were asked whether they identify as transgender are coded as 1 if they did or 0 if they did not, which includes don't know responses, not sure responses, and refusals to answer.

We directly analyze the results from any state that implemented the sexual orientation and gender identity module. For example, the estimates for the 41 states in the BRFSS will be the same as the weighted results one would obtain from direct analyses of available 2017-2020 BRFSS data for that state.²² The pooled estimates do not account for various years.

The strategy we employ for states where transgender identification is not observed, because the SOGI module was not used, combines small area estimation strategies common in demographic research with poststratification techniques common in survey research.²³ This strategy is called multilevel regression and poststratification (MRP). We fit a multilevel model relying on demographics and state of residence. The general model can be summarized in two stages. The first stage performs a multilevel regression to data. The following is the specification for the BRFSS:

$$y_i = g(b_0 + b_1 * \text{cell_int} + \alpha_{\text{race}_i}^j + \alpha_{\text{age}_i}^k + \alpha_{\text{educ}_i}^l + \alpha_{\text{age.educ}_i}^m + \alpha_{\text{state}_i}^s).$$

where $g(\cdot)$ is a link function, and α 's represent random coefficients for demographic and geographic predictors. All demographic random effects are distributed normally, $\alpha \sim N(0, \sigma^2)$.

In building our estimation models, we included covariates that are correlated with the percentage of transgender or LGBT people within a state and where there are population estimates from the United States Census Bureau. Individual-level and contextual covariates are related to identification, disclosure, and may be associated with migration to a state. Evaluations of models employing this estimation strategy for statewide estimates show that even using a single demographic predictor, such as race, in addition to geographic predictors produce estimates that out-perform disaggregated analysis.²⁴ Studies document that LGBT and transgender populations tend to be younger,²⁵ more

²²This is true for all overall estimates. However, for subgroups we rely on the model described in this note and then generalize those model results to the estimated population total of people who identify as transgender. We do this because of small cell sizes and unstable direct estimates.

²³Park, D.K., Gelman, A., & Bafumi, J. (2004). Bayesian multilevel estimation with poststratification: State-level estimates from national polls. *Political Analysis*, 12, 375-385.

²⁴Lax, J. R., and Phillips, J. H. (2009). How should we estimate public opinion in the states? *American Journal of Political Science*, 53(1), 107-121.

²⁵James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L. A., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality; Meyer, I.H., Wilson, B.D.M., & O'Neill, K. (2021). *LGBTQ People in the US: Select Findings from the Generations and TransPop Studies*. Los Angeles, CA: The Williams Institute.

racially and ethnically diverse,²⁶ and have levels of educational attainment that differ from non-LGBT²⁷ or cisgender populations.²⁸ Further, varying social contexts may create environments that are either more welcoming to LGBT people encouraging greater identity uptake or migration.²⁹ Thus, the models rely on basic demographics and state-level contextual characteristics that may covary with transgender status.

We use six race and ethnicity categories. We also use 10 age categories ranging from 18 to over 65 years old. Educational attainment is comprised of four categories (i.e., less than a high school diploma or equivalent, a high school diploma or equivalent, some college education, and those with a college degree or more education). We also use the interaction of age and education categories, which is a standard procedure in survey weighting as age and educational attainment are interrelated. At times, the BRFSS module may or may not be used in a cell phone interview depending on a person's residency,³⁰ so it is used as a covariate to account for a systematic missing data pattern. The geographic-level coefficients are given group-level covariates:

$$\alpha_s \sim N(\alpha_{\text{region}_s}^r + G^s U, \sigma_{\text{state}}^2),$$

where G^s is a matrix of $(s \times j)$ matrix of j group-level variables and U is a vector of length j regression coefficients. We include statewide contextual variables such as race/ethnic composition of the state, the percentage of same-sex couple households in the state, statewide measures of public opinion on LGBT rights, and median income in a state. In total, the percentage of same-sex couple households in the state was among the strongest predictors in the current model. We further add a third level to the model for regional groupings of the states, which is also distributed normally.³¹

The YRBS was analyzed with the same approach, except there were only two age groups (13-14; 15-17), and we do not use educational attainment or cell phone interviews. Our analyses use the sampling weights from both the BRFSS and YRBS. We rescale these weights to account for multilevel modeling using Carle's method A.³² All models are fit in R relying on maximum likelihood estimation.³³ The second step of MRP is to use the fitted regression and generalize it over known population distributions. For example, if $g(\cdot)$ were a logistic regression, then the probabilities an individual identifies with a group can be predicted for each demographic and geographic characteristic (θ_c),

²⁶Flores, A. R., Langton, L., Meyer, I. H., and Romero, A. P. (2020). Victimization rates and traits of sexual and gender minorities in the United States: Results from the National Crime Victimization Survey, 2017. *Science Advances*, 6: eaba6910.

²⁷Ibid.

²⁸Badgett, M. V. L., Choi, S. K., & Wilson, B. D. M., (2019, October). *LGBT poverty in the United States: A study of differences between sexual orientation and gender identity groups*. Los Angeles, CA: The Williams Institute.

²⁹Espósito, E., Calanchini, J. (2022). Examining selective migration as attitudinal fit versus gay migration. *Journal of Experimental Social Psychology*, 101, 104307.

³⁰Jesdale, B.M. (2021). Sources of missing sexual orientation and gender identity data in the Behavioral Risk Factor Surveillance System. *American Journal of Preventative Medicine*, 61(2), 281-290.

³¹Given the uniqueness of the District of Columbia, it is treated as its own state and region in this process.

³²Carle, A.C. (2009). Fitting multilevel models in complex survey data with design weights: Recommendations. *BMV Medical Research Methodology*, 9, <https://doi.org/10.1186/1471-2288-9-49>

³³Bates, D., Mächler, M., Bolker, B., and Walker, S. (2015). Fitting linear mixed-effects models using lme4. *Journal of Statistical Software*, 67, 1-48.

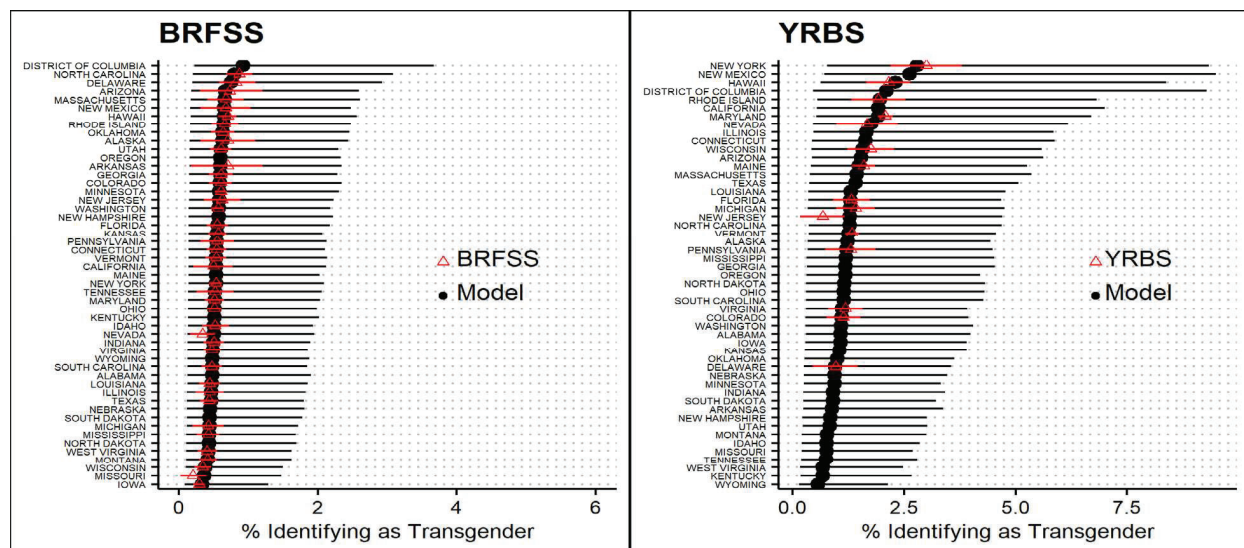
where $\max(c) = j * k * l * s$. Every fitted value can then be weighted by the size of the population, N_c , and these weighted values summed by state for population size and further divided by the state's population for a population proportion:

$$\text{Population size}_s = \sum_{c \in s} \theta_c * N_c ; \text{Population Proportion}_s = \frac{\sum_{c \in s} \theta_c * N_c}{\sum_{c \in s} N_c}.$$

We use the 2019 three-year estimates from the American Community Survey for our poststratification dataset, which we retrieved through IPUMS. For the states where data are observed, we multiply the 2019 3-year estimates to the proportion of people identifying as transgender, providing us with a population estimate. For the states where data are not observed, model-based estimates are used, and we incorporate model uncertainty in predictions when providing confidence intervals of our estimates.³⁴

Since our estimation strategy produces two sets of estimates for states where data are observed (i.e., direct estimates and model-based estimates). We compared these two sets of estimates. Overall, they tended to strongly correlate with one another (e.g., correlation above 0.80), suggesting that the model-based estimates perform similar to direct estimation. Figure 5 compares model-based estimates to direct estimates at the state level. We see very few deviations that all fall beyond the margin of error. The three exceptions are Missouri and Nevada in the BRFSS and New Jersey in the YRBS, where the direct estimates are smaller than the model-based estimates. These deviations all fall well within confidence intervals. While we report direct estimates whenever possible, these discrepancies suggest that model-based estimates may better adjust weighted estimates to population targets without producing bias. We still opt to be conservative in our reporting and rely on direct estimates whenever the data are available.

Figure 5. Model-based estimates and direct estimates from BRFSS and YRBS



³⁴There is no consensus about the best method for uncertainty estimation for multilevel models. We use the predictInterval function from the merTools package in R for uncertainty estimation. Ideally, a fully Bayesian model would be preferred, but we were limited by computing power.

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To ensure subgroup estimates summed to national estimates, the subgroup counts of people who identify as transgender were divided by total counts of people who identify as transgender and the resulting percentage was then multiplied by the total population estimate to create an adjusted subgroup population estimate. For example, the population estimates of adults who identify as transgender by age group in California were added together to create a population estimate of the total number of adults who identify as transgender in California. The estimated number of 18- to 24-year-old transgender people in California is then divided by this total, to create an estimate of what percentage of transgender adults in California are 18 to 24. This percentage is then multiplied by the total estimated number of adults who identify as transgender in California. The resulting population estimate for that subgroup is only slightly different than the original subgroup estimate but it now correctly adds to the total estimated number of adults who identify as transgender in California.

To create national estimates, count estimates for each state were summed and then divided by the total population estimate. For example, the estimated number of Black adults who identify as transgender in the United States was summed across all states and then divided by the total estimated number of Black adults in the U.S. This created a national estimate of the percentage of Black adults who identify as transgender. A similar approach was used to create regional estimates.

All numbers were rounded to the nearest 100th. Some lower-bound credible intervals reported below were negative; these were truncated to zero.

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ACKNOWLEDGEMENTS

The authors thank Bianca Wilson, Kerith Conron, Christy Mallory, and Brad Sears for their thoughtful reviews and contributions to this report. We also thank Rachel Dowd and Sandro Del Rosario for their design and creation of the data interactive that accompanies this report. Finally, the authors thank Gary J. Gates for his foundational research that launched this series of reports.

SUGGESTED CITATION

Herman, J.L., Flores, A.R., O'Neill, K.K. (2022). How Many Adults and Youth Identify as Transgender in the United States? The Williams Institute, UCLA School of Law

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APPENDIX

Table A1. Percent of each age group that identifies as transgender in the U.S.

	PERCENT [LB, UB]	NUMBER [LB, UB]
13 to 17	[0.61%, 4.02%]	[128,834, 843,773]
18 to 24	[0.43%, 2.43%]	[130,902, 736,873]
25 to 64	[0.23%, 0.74%]	[399,265, 1,260,344]
65 and older	[0.12%, 0.57%]	[64,824, 310,718]
Total (ages 13+)	[0.26%, 1.14%]	[723,825, 3,151,708]

Table A2. Percent of each racial/ethnic group that identifies as transgender in the U.S., among adults (ages 18 and older)

	PERCENT [LB, UB]	NUMBER [LB, UB]
White	[0.28%, 0.72%]	[450,300, 1,151,079]
Black	[0.36%, 0.84%]	[110,698, 258,977]
Asian	[0.31%, 0.74%]	[47,451, 113,294]
AIAN	[0.50%, 1.39%]	[8,327, 23,097]
Latinx	[0.41%, 1.00%]	[172,709, 420,079]
Biracial, multiracial, or other race/ethnicity	[0.58%, 1.42%]	[40,459, 98,207]
Total	[0.32%, 0.77%]	[816,644, 1,964,330]

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

Table A3. Percent of each racial/ethnic group that identifies as transgender in the U.S., among youth (ages 13 to 17)

	PERCENT [LB, UB]	NUMBER [LB, UB]
White	[0.34%, 4.63%]	[36,900, 498,000]
Black	[0.38%, 5.05%]	[10,700, 142,250]
Asian	[0.28%, 3.80%]	[2,900, 39,800]
AIAN	[0.48%, 6.46%]	[800, 10,900]
Latinx	[0.49%, 6.34%]	[25,600, 330,650]
Biracial, multiracial, or other race/ethnicity	[0.41%, 5.47%]	[4,000, 53,850]
Total	[0.58%, 3.92%]	[122,000, 823,200]

Note: White, Black, Asian, and American Indian or Alaska Native (AIAN) are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. Biracial, multiracial, and other race/ethnicity are non-Hispanic.

Table A4. 95% Credible Intervals for regional and state-level estimates of those who identify as transgender in the U.S. population by age group

	13-17		18-24		25-64		65+		ALL ADULTS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
United States	[0.61%, 4.02%]	[128,834, 843,773]	[0.43%, 2.43%]	[130,902, 736,873]	[0.23%, 0.74%]	[399,265, 1,260,344]	[0.12%, 0.57%]	[64,824, 310,718]	[0.32%, 0.77%]	[816,644, 1,964,330]
WEST	[0.51%, 5.48%]	[25,784, 277,035]	[0.35%, 2.16%]	[25,647, 156,784]	[0.18%, 0.92%]	[73,888, 377,554]	[0.04%, 0.63%]	[4,962, 76,784]	[0.27%, 0.76%]	[162,515, 461,338]
Alaska	[0.33%, 4.44%]	[143, 1,930]	[0.00%, 3.50%]	[0, 2,345]	[0.21%, 1.09%]	[837, 4,272]	[0.03%, 0.66%]	[26, 616]	[0.31%, 1.10%]	[1,715, 6,085]
Arizona	[0.43%, 5.63%]	[2,040, 26,881]	[0.00%, 4.14%]	[0, 28,838]	[0.14%, 1.28%]	[5,047, 46,633]	[0.03%, 0.44%]	[398, 5,734]	[0.30%, 1.20%]	[16,921, 67,683]
California	[0.54%, 7.01%]	[13,828, 178,759]	[0.14%, 1.25%]	[5,169, 46,288]	[0.12%, 0.89%]	[24,372, 187,926]	[0.00%, 0.70%]	[0, 40,614]	[0.21%, 0.77%]	[64,328, 235,869]
Colorado	[0.68%, 1.60%]	[2,484, 5,849]	[1.08%, 3.09%]	[5,686, 16,305]	[0.35%, 0.68%]	[10,898, 21,338]	[0.00%, 0.11%]	[0, 950]	[0.43%, 0.76%]	[19,372, 34,239]
Hawaii	[1.66%, 2.63%]	[1,330, 2,104]	[0.77%, 2.22%]	[905, 2,604]	[0.51%, 0.81%]	[3,698, 5,928]	[0.26%, 0.62%]	[707, 1,668]	[0.56%, 0.83%]	[6,249, 9,262]
Idaho	[0.20%, 2.85%]	[261, 3,737]	[0.22%, 1.62%]	[362, 2,632]	[0.25%, 0.77%]	[2,249, 6,823]	[0.09%, 0.62%]	[262, 1,797]	[0.33%, 0.72%]	[4,414, 9,631]
Montana	[0.21%, 3.00%]	[137, 1,997]	[0.08%, 1.32%]	[76, 1,334]	[0.31%, 0.64%]	[1,652, 3,378]	[0.04%, 0.22%]	[87, 464]	[0.29%, 0.54%]	[2,440, 4,543]
Nevada	[0.93%, 2.40%]	[1,844, 4,746]	[0.00%, 1.96%]	[0, 4,932]	[0.16%, 0.53%]	[2,642, 8,772]	[0.00%, 0.09%]	[0, 466]	[0.16%, 0.52%]	[3,823, 12,425]
New Mexico	[0.71%, 9.49%]	[989, 13,308]	[0.00%, 1.74%]	[0, 3,460]	[0.16%, 1.08%]	[1,628, 11,274]	[0.00%, 1.46%]	[0, 5,537]	[0.31%, 1.03%]	[5,032, 16,718]
Oregon	[0.31%, 4.21%]	[778, 10,451]	[0.40%, 5.77%]	[1,457, 21,059]	[0.13%, 2.07%]	[2,897, 45,955]	[0.09%, 1.44%]	[671, 11,073]	[0.15%, 2.33%]	[50, 781]
Utah	[0.22%, 3.02%]	[568, 7,700]	[0.71%, 1.98%]	[2,563, 7,142]	[0.31%, 0.63%]	[4,848, 9,763]	[0.25%, 0.62%]	[899, 2,270]	[0.45%, 0.75%]	[10,244, 17,073]
Washington	[0.29%, 4.06%]	[1,325, 18,761]	[1.41%, 2.62%]	[9,262, 17,293]	[0.31%, 0.51%]	[12,818, 20,840]	[0.15%, 0.37%]	[1,841, 4,471]	[0.46%, 0.65%]	[27,386, 38,698]
Wyoming	[0.15%, 2.13%]	[56, 814]	[0.30%, 4.58%]	[167, 2,553]	[0.10%, 1.61%]	[302, 4,652]	[0.07%, 1.13%]	[71, 1,124]	[0.12%, 1.88%]	[540, 8,330]
MIDWEST	[0.49%, 3.67%]	[21,739, 161,975]	[0.42%, 2.32%]	[26,559, 148,216]	[0.19%, 0.54%]	[67,789, 188,624]	[0.11%, 0.45%]	[12,382, 52,130]	[0.27%, 0.65%]	[144,115, 344,082]
Illinois	[0.46%, 5.85%]	[3,836, 48,306]	[0.42%, 3.46%]	[4,811, 39,925]	[0.11%, 0.38%]	[7,446, 25,144]	[0.07%, 0.40%]	[1,407, 8,217]	[0.24%, 0.64%]	[23,656, 63,082]
Indiana	[0.24%, 3.42%]	[1,097, 15,534]	[0.44%, 1.92%]	[2,946, 12,738]	[0.28%, 0.61%]	[9,528, 20,945]	[0.12%, 0.43%]	[1,270, 4,662]	[0.35%, 0.65%]	[18,068, 33,554]
Iowa	[0.29%, 3.91%]	[586, 7,805]	[0.15%, 0.75%]	[468, 2,364]	[0.19%, 0.38%]	[2,947, 5,947]	[0.11%, 0.35%]	[584, 1,913]	[0.21%, 0.37%]	[5,112, 9,006]
Kansas	[0.28%, 3.90%]	[559, 7,841]	[1.15%, 2.70%]	[3,395, 8,011]	[0.24%, 0.46%]	[3,453, 6,577]	[0.21%, 0.47%]	[993, 2,234]	[0.42%, 0.68%]	[9,294, 15,048]
Michigan	[1.02%, 1.79%]	[6,432, 11,316]	[0.00%, 2.27%]	[33, 21,458]	[0.11%, 0.65%]	[5,797, 33,300]	[0.00%, 0.32%]	[0, 5,577]	[0.19%, 0.64%]	[14,909, 50,221]

	13-17		18-24		25-64		65+		ALL ADULTS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Minnesota	[0.25%, 3.32%]	[934, 12,413]	[1.16%, 2.08%]	[5,675, 10,182]	[0.42%, 0.62%]	[12,268, 18,075]	[0.22%, 0.42%]	[2,028, 3,831]	[0.52%, 0.69%]	[22,541, 29,910]
Missouri	[0.20%, 2.70%]	[778, 10,548]	[0.00%, 2.08%]	[0, 11,667]	[0.00%, 0.16%]	[0, 5,189]	[0.05%, 0.62%]	[480, 6,555]	[0.02%, 0.39%]	[954, 18,595]
Nebraska	[0.25%, 3.47%]	[324, 4,561]	[0.30%, 4.35%]	[561, 8,234]	[0.09%, 1.52%]	[909, 14,575]	[0.07%, 1.13%]	[224, 3,537]	[0.12%, 1.80%]	[1,694, 26,346]
North Dakota	[0.30%, 4.32%]	[127, 1,842]	[0.25%, 3.93%]	[204, 3,144]	[0.09%, 1.43%]	[347, 5,489]	[0.06%, 1.02%]	[76, 1,229]	[0.11%, 1.69%]	[627, 9,862]
Ohio	[0.30%, 4.31%]	[2,242, 31,883]	[0.62%, 1.66%]	[6,661, 17,749]	[0.33%, 0.57%]	[19,847, 34,509]	[0.22%, 0.48%]	[4,536, 9,844]	[0.40%, 0.61%]	[36,471, 55,618]
South Dakota	[0.24%, 3.21%]	[141, 1,875]	[0.29%, 4.35%]	[238, 3,590]	[0.09%, 1.51%]	[409, 6,536]	[0.07%, 1.12%]	[110, 1,734]	[0.11%, 1.77%]	[757, 11,860]
Wisconsin	[1.29%, 2.21%]	[4,683, 8,050]	[0.29%, 1.68%]	[1,568, 9,155]	[0.16%, 0.41%]	[4,838, 12,337]	[0.07%, 0.27%]	[675, 2,797]	[0.22%, 0.46%]	[10,033, 20,979]
SOUTH	[0.53%, 3.68%]	[42,806, 299,986]	[0.45%, 2.50%]	[51,865, 290,313]	[0.27%, 0.73%]	[176,871, 475,755]	[0.16%, 0.62%]	[33,661, 128,183]	[0.35%, 0.82%]	[343,999, 793,395]
Alabama	[0.30%, 3.99%]	[956, 12,593]	[0.31%, 4.55%]	[1,391, 20,700]	[0.10%, 1.66%]	[2,619, 41,531]	[0.08%, 1.20%]	[657, 10,233]	[0.12%, 1.90%]	[4,667, 72,464]
Arkansas	[0.24%, 3.37%]	[471, 6,712]	[0.00%, 7.89%]	[0, 22,365]	[0.03%, 0.45%]	[392, 6,878]	[0.12%, 1.04%]	[618, 5,458]	[0.17%, 1.20%]	[3,943, 27,831]
Delaware	[0.51%, 1.40%]	[305, 843]	[0.95%, 3.76%]	[796, 3,155]	[0.42%, 0.97%]	[2,077, 4,827]	[0.18%, 0.79%]	[335, 1,501]	[0.58%, 1.10%]	[4,465, 8,468]
District of Columbia	[0.46%, 9.29%]	[130, 2,603]	[0.54%, 8.51%]	[392, 6,156]	[0.18%, 3.14%]	[773, 13,125]	[0.14%, 2.20%]	[121, 1,927]	[0.22%, 3.67%]	[1,286, 21,207]
Florida	[0.97%, 1.67%]	[11,898, 20,515]	[0.33%, 2.23%]	[5,791, 39,269]	[0.32%, 0.67%]	[34,691, 73,562]	[0.25%, 0.58%]	[11,041, 26,257]	[0.40%, 0.70%]	[68,989, 120,730]
Georgia	[0.32%, 4.54%]	[2,307, 32,790]	[0.38%, 2.10%]	[3,869, 21,625]	[0.30%, 0.67%]	[16,445, 37,242]	[0.32%, 0.89%]	[4,878, 13,621]	[0.43%, 0.77%]	[34,896, 62,489]
Kentucky	[0.18%, 2.68%]	[517, 7,813]	[0.31%, 4.83%]	[1,300, 20,252]	[0.11%, 1.72%]	[2,505, 39,533]	[0.09%, 1.32%]	[653, 9,997]	[0.13%, 2.01%]	[4,457, 69,781]
Louisiana	[0.35%, 4.77%]	[1,062, 14,546]	[0.13%, 1.44%]	[550, 6,102]	[0.27%, 0.64%]	[6,464, 15,288]	[0.08%, 0.37%]	[569, 2,776]	[0.29%, 0.59%]	[10,334, 21,025]
Maryland	[1.95%, 2.22%]	[7,507, 8,542]	[0.91%, 2.89%]	[4,803, 15,160]	[0.26%, 0.50%]	[8,264, 16,046]	[0.10%, 0.26%]	[948, 2,506]	[0.37%, 0.65%]	[17,444, 30,644]
Mississippi	[0.31%, 4.52%]	[627, 9,213]	[0.16%, 1.47%]	[463, 4,385]	[0.16%, 0.57%]	[2,411, 8,575]	[0.10%, 0.56%]	[474, 2,746]	[0.25%, 0.58%]	[5,695, 13,211]
North Carolina	[0.36%, 4.69%]	[2,413, 31,369]	[1.42%, 3.50%]	[14,413, 35,472]	[0.52%, 0.95%]	[28,416, 51,386]	[0.31%, 0.75%]	[5,355, 13,123]	[0.68%, 1.05%]	[55,724, 86,044]
Oklahoma	[0.27%, 3.63%]	[691, 9,438]	[1.36%, 3.68%]	[5,236, 14,186]	[0.30%, 0.58%]	[6,038, 11,532]	[0.06%, 0.32%]	[381, 1,999]	[0.46%, 0.80%]	[13,830, 24,053]
South Carolina	[0.30%, 4.28%]	[975, 13,788]	[0.25%, 1.50%]	[1,186, 7,093]	[0.23%, 0.63%]	[6,084, 16,683]	[0.23%, 0.53%]	[2,186, 4,932]	[0.32%, 0.62%]	[12,923, 25,038]
Tennessee	[0.19%, 2.79%]	[822, 11,816]	[0.07%, 3.84%]	[410, 24,084]	[0.18%, 0.70%]	[6,535, 25,020]	[0.00%, 0.18%]	[0, 2,086]	[0.25%, 0.78%]	[13,296, 41,484]

How Many Adults and Youth Identify as Transgender in the United States? | 22

	13-17		18-24		25-64		65+		ALL ADULTS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Texas	[0.37%, 5.07%]	[7,732, 106,687]	[0.27%, 1.15%]	[7,577, 32,579]	[0.26%, 0.57%]	[38,793, 85,989]	[0.08%, 0.55%]	[3,139, 20,418]	[0.30%, 0.56%]	[64,803, 120,966]
Virginia	[0.80%, 1.55%]	[4,225, 8,149]	[0.40%, 1.82%]	[3,198, 14,624]	[0.28%, 0.53%]	[12,515, 23,842]	[0.15%, 0.54%]	[2,009, 7,290]	[0.35%, 0.60%]	[23,377, 40,074]
West Virginia	[0.16%, 2.47%]	[168, 2,569]	[0.32%, 2.05%]	[489, 3,107]	[0.20%, 0.51%]	[1,851, 4,696]	[0.08%, 0.36%]	[299, 1,316]	[0.27%, 0.55%]	[3,870, 7,884]
NORTHEAST	[1.14%, 3.10%]	[38,504, 104,777]	[0.53%, 2.78%]	[26,831, 141,561]	[0.27%, 0.74%]	[80,717, 218,410]	[0.14%, 0.55%]	[13,818, 53,622]	[0.37%, 0.82%]	[166,015, 365,516]
Connecticut	[0.44%, 5.87%]	[980, 13,222]	[0.54%, 2.15%]	[1,882, 7,435]	[0.31%, 0.59%]	[5,789, 10,968]	[0.20%, 0.55%]	[1,267, 3,475]	[0.40%, 0.68%]	[11,351, 19,297]
Maine	[1.39%, 1.80%]	[1,021, 1,322]	[0.36%, 5.00%]	[386, 5,407]	[0.12%, 1.87%]	[849, 13,159]	[0.09%, 1.28%]	[254, 3,679]	[0.14%, 2.03%]	[1,489, 22,246]
Massachusetts	[0.38%, 5.36%]	[1,571, 21,958]	[0.69%, 3.90%]	[4,792, 26,922]	[0.20%, 0.68%]	[7,444, 24,975]	[0.12%, 0.81%]	[1,411, 9,457]	[0.41%, 0.93%]	[22,723, 51,543]
New Hampshire	[0.22%, 3.01%]	[177, 2,414]	[0.36%, 5.78%]	[443, 7,157]	[0.12%, 1.90%]	[877, 13,793]	[0.09%, 1.38%]	[225, 3,478]	[0.14%, 2.21%]	[1,545, 24,427]
New Jersey	[0.19%, 1.15%]	[1,056, 6,521]	[0.31%, 3.03%]	[2,356, 22,910]	[0.22%, 0.83%]	[10,185, 39,143]	[0.16%, 0.59%]	[2,433, 8,681]	[0.36%, 0.88%]	[25,018, 61,156]
New York	[2.28%, 3.72%]	[26,448, 43,209]	[0.79%, 1.96%]	[13,832, 34,452]	[0.37%, 0.55%]	[37,926, 57,554]	[0.19%, 0.43%]	[6,302, 14,018]	[0.43%, 0.62%]	[66,374, 95,703]
Pennsylvania	[0.78%, 1.82%]	[5,987, 14,014]	[0.16%, 2.84%]	[1,818, 32,295]	[0.22%, 0.79%]	[14,634, 52,649]	[0.07%, 0.40%]	[1,617, 9,626]	[0.31%, 0.79%]	[31,543, 80,383]
Rhode Island	[1.32%, 2.54%]	[828, 1,593]	[0.95%, 3.28%]	[1,043, 3,613]	[0.35%, 0.73%]	[1,977, 4,096]	[0.07%, 0.35%]	[139, 647]	[0.47%, 0.85%]	[4,029, 7,286]
Vermont	[1.21%, 1.45%]	[435, 524]	[0.43%, 2.10%]	[279, 1,371]	[0.32%, 0.65%]	[1,036, 2,073]	[0.14%, 0.45%]	[169, 560]	[0.38%, 0.68%]	[1,942, 3,475]

Table A5. 95% Credible Intervals for regional and state-level estimates of adults who identify as transgender in the U.S. by race/ethnicity

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
United States	[0.28%, 0.72%]	[450,300, 1,151,079]	[0.36%, 0.84%]	[110,698, 258,977]	[0.31%, 0.74%]	[47,451, 113,294]	[0.41%, 1.00%]	[172,709, 420,079]	[0.58%, 1.42%]	[40,459, 98,207]
WEST	[0.24%, 0.76%]	[77,004, 243,246]	[0.25%, 0.81%]	[6,967, 22,361]	[0.25%, 0.74%]	[17,511, 51,508]	[0.33%, 1.12%]	[53,629, 184,482]	[0.49%, 1.45%]	[12,378, 37,047]
Alaska	[0.12%, 1.92%]	[855, 3,045]	[0.17%, 2.68%]	[57, 202]	[0.17%, 2.59%]	[144, 501]	[0.19%, 2.90%]	[133, 459]	[0.49%, 1.76%]	[526, 1,878]
Arizona	[0.13%, 2.03%]	[7,583, 31,021]	[0.17%, 2.54%]	[708, 2,866]	[0.16%, 2.40%]	[555, 2,252]	[0.24%, 3.49%]	[6,590, 25,602]	[0.47%, 1.89%]	[1,485, 5,942]
California	[0.10%, 1.58%]	[19,339, 69,353]	[0.13%, 2.03%]	[3,503, 12,883]	[0.12%, 1.85%]	[9,258, 32,861]	[0.17%, 2.76%]	[29,094, 109,835]	[0.33%, 1.15%]	[3,135, 10,936]
Colorado	[0.13%, 2.02%]	[11,741, 20,909]	[0.15%, 2.45%]	[744, 1,376]	[0.16%, 2.36%]	[691, 1,201]	[0.22%, 3.28%]	[5,262, 9,172]	[0.76%, 1.28%]	[934, 1,581]
Hawaii	[0.13%, 1.97%]	[1,152, 1,675]	[0.15%, 2.34%]	[104, 155]	[0.15%, 2.34%]	[2,815, 4,269]	[0.20%, 3.09%]	[654, 946]	[0.86%, 1.25%]	[1,524, 2,216]
Idaho	[0.11%, 1.76%]	[3,357, 7,392]	[0.16%, 2.47%]	[29, 63]	[0.12%, 1.94%]	[60, 137]	[0.19%, 2.82%]	[746, 1,555]	[0.53%, 1.16%]	[223, 484]
Montana	[0.09%, 1.50%]	[1,968, 3,707]	[0.15%, 2.12%]	[16, 28]	[0.10%, 1.50%]	[19, 35]	[0.17%, 2.43%]	[131, 225]	[0.49%, 0.88%]	[305, 548]
Nevada	[0.10%, 1.52%]	[1,547, 5,032]	[0.13%, 1.93%]	[352, 1,111]	[0.11%, 1.74%]	[329, 1,052]	[0.17%, 2.71%]	[1,352, 4,451]	[0.26%, 0.82%]	[243, 778]
New Mexico	[0.12%, 1.83%]	[1,483, 5,024]	[0.15%, 2.45%]	[97, 338]	[0.14%, 2.18%]	[80, 271]	[0.19%, 2.83%]	[2,671, 8,773]	[0.45%, 1.48%]	[701, 2,313]
Oregon	[0.13%, 2.06%]	[3,463, 53,887]	[0.16%, 2.53%]	[93, 1,454]	[0.16%, 2.51%]	[276, 4,275]	[0.22%, 3.47%]	[836, 12,993]	[0.25%, 3.91%]	[357, 5,477]
Utah	[0.13%, 2.07%]	[7,306, 12,214]	[0.17%, 2.47%]	[114, 181]	[0.17%, 2.58%]	[412, 677]	[0.21%, 3.15%]	[1,855, 3,035]	[0.78%, 1.36%]	[556, 966]
Washington	[0.12%, 1.87%]	[16,788, 23,459]	[0.15%, 2.36%]	[1,144, 1,604]	[0.15%, 2.18%]	[2,868, 3,884]	[0.20%, 3.33%]	[4,228, 6,304]	[0.81%, 1.18%]	[2,358, 3,447]
Wyoming	[0.11%, 1.71%]	[422, 6,526]	[0.15%, 2.32%]	[6, 100]	[0.15%, 2.36%]	[6, 92]	[0.19%, 2.87%]	[76, 1,132]	[0.22%, 3.36%]	[31, 480]
MIDWEST	[0.25%, 0.60%]	[103,416, 245,223]	[0.29%, 0.68%]	[15,082, 35,880]	[0.30%, 0.70%]	[5,418, 12,613]	[0.38%, 0.95%]	[13,844, 34,444]	[0.54%, 1.35%]	[6,356, 15,921]
Illinois	[0.10%, 1.60%]	[13,094, 35,165]	[0.12%, 1.95%]	[3,432, 9,223]	[0.11%, 1.70%]	[1,283, 3,432]	[0.16%, 2.51%]	[5,044, 13,364]	[0.49%, 1.16%]	[802, 1,898]
Indiana	[0.12%, 1.75%]	[13,594, 25,148]	[0.13%, 2.11%]	[1,727, 3,333]	[0.15%, 2.27%]	[541, 1,007]	[0.18%, 2.65%]	[1,547, 2,778]	[0.70%, 1.37%]	[658, 1,288]
Iowa	[0.08%, 1.20%]	[4,140, 7,333]	[0.11%, 1.59%]	[235, 398]	[0.10%, 1.56%]	[154, 271]	[0.14%, 2.10%]	[430, 742]	[0.42%, 0.71%]	[152, 261]
Kansas	[0.12%, 1.83%]	[6,458, 10,452]	[0.15%, 2.33%]	[559, 944]	[0.15%, 2.40%]	[300, 510]	[0.21%, 3.07%]	[1,447, 2,269]	[0.77%, 1.26%]	[530, 873]

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Michigan	[0.10%, 1.58%]	[10,596, 35,680]	[0.12%, 1.89%]	[2,129, 7,240]	[0.12%, 1.82%]	[528, 1,765]	[0.16%, 2.50%]	[960, 3,234]	[0.36%, 1.19%]	[697, 2,302]
Minnesota	[0.14%, 2.10%]	[16,873, 22,434]	[0.18%, 2.73%]	[1,510, 1,961]	[0.18%, 2.76%]	[1,281, 1,734]	[0.23%, 3.46%]	[1,510, 2,009]	[1.08%, 1.40%]	[1,368, 1,772]
Missouri	[0.08%, 1.40%]	[723, 14,324]	[0.10%, 1.59%]	[121, 2,219]	[0.10%, 1.57%]	[24, 449]	[0.13%, 2.06%]	[49, 930]	[0.04%, 0.70%]	[36, 674]
Nebraska	[0.10%, 1.63%]	[1,238, 19,344]	[0.13%, 2.14%]	[88, 1,393]	[0.13%, 2.12%]	[49, 784]	[0.18%, 2.74%]	[246, 3,692]	[0.22%, 3.41%]	[74, 1,134]
North Dakota	[0.10%, 1.54%]	[492, 7,765]	[0.12%, 1.92%]	[18, 291]	[0.15%, 2.27%]	[17, 257]	[0.19%, 2.87%]	[39, 596]	[0.17%, 2.73%]	[61, 952]
Ohio	[0.12%, 1.87%]	[27,892, 42,266]	[0.14%, 2.15%]	[4,542, 7,125]	[0.13%, 2.11%]	[859, 1,414]	[0.18%, 2.78%]	[1,689, 2,593]	[0.82%, 1.22%]	[1,488, 2,220]
South Dakota	[0.10%, 1.59%]	[575, 9,025]	[0.13%, 2.00%]	[18, 276]	[0.15%, 2.36%]	[14, 225]	[0.16%, 2.47%]	[34, 522]	[0.20%, 3.14%]	[115, 1,812]
Wisconsin	[0.09%, 1.39%]	[7,739, 16,287]	[0.12%, 1.83%]	[704, 1,475]	[0.12%, 1.90%]	[367, 764]	[0.14%, 2.15%]	[850, 1,717]	[0.42%, 0.83%]	[374, 736]
SOUTH	[0.30%, 0.76%]	[174,367, 433,893]	[0.38%, 0.90%]	[68,709, 161,966]	[0.35%, 0.72%]	[12,221, 25,405]	[0.46%, 0.88%]	[73,399, 140,419]	[0.67%, 1.40%]	[15,303, 31,712]
Alabama	[0.11%, 1.75%]	[2,918, 44,892]	[0.13%, 2.08%]	[1,307, 20,777]	[0.11%, 1.85%]	[60, 970]	[0.18%, 2.77%]	[236, 3,612]	[0.21%, 3.14%]	[145, 2,213]
Arkansas	[0.14%, 2.17%]	[2,728, 19,259]	[0.16%, 2.49%]	[625, 4,448]	[0.18%, 2.73%]	[83, 580]	[0.22%, 3.39%]	[362, 2,534]	[0.28%, 1.95%]	[146, 1,009]
Delaware	[0.17%, 2.54%]	[2,553, 4,789]	[0.20%, 3.16%]	[999, 1,931]	[0.17%, 2.79%]	[162, 318]	[0.29%, 4.64%]	[545, 1,051]	[1.26%, 2.33%]	[205, 379]
District of Columbia	[0.18%, 3.08%]	[426, 7,167]	[0.24%, 3.89%]	[586, 9,573]	[0.23%, 4.23%]	[61, 1,102]	[0.27%, 4.35%]	[157, 2,516]	[0.35%, 5.32%]	[55, 850]
Florida	[0.12%, 1.87%]	[32,116, 58,022]	[0.15%, 2.39%]	[10,771, 19,025]	[0.14%, 2.18%]	[1,978, 3,461]	[0.18%, 2.60%]	[21,699, 36,102]	[0.73%, 1.24%]	[2,424, 4,121]
Georgia	[0.13%, 2.05%]	[16,907, 30,596]	[0.15%, 2.33%]	[11,308, 19,835]	[0.15%, 2.23%]	[1,474, 2,590]	[0.21%, 3.27%]	[4,031, 7,398]	[0.78%, 1.37%]	[1,175, 2,069]
Kentucky	[0.12%, 1.92%]	[3,654, 57,354]	[0.14%, 2.19%]	[387, 6,048]	[0.13%, 2.05%]	[72, 1,124]	[0.19%, 2.92%]	[199, 3,055]	[0.28%, 4.24%]	[146, 2,200]
Louisiana	[0.11%, 1.67%]	[5,647, 11,468]	[0.13%, 2.06%]	[3,538, 7,257]	[0.13%, 1.93%]	[189, 375]	[0.15%, 2.36%]	[635, 1,280]	[0.48%, 0.95%]	[325, 646]
Maryland	[0.11%, 1.78%]	[8,104, 14,063]	[0.13%, 2.11%]	[5,198, 9,412]	[0.12%, 1.91%]	[1,079, 1,893]	[0.19%, 2.91%]	[2,298, 3,977]	[0.64%, 1.08%]	[764, 1,298]
Mississippi	[0.10%, 1.53%]	[3,002, 7,046]	[0.12%, 1.81%]	[2,273, 5,204]	[0.11%, 1.74%]	[54, 131]	[0.16%, 2.53%]	[222, 511]	[0.47%, 1.04%]	[144, 319]
North Carolina	[0.18%, 2.71%]	[32,262, 49,657]	[0.22%, 3.41%]	[12,387, 19,794]	[0.20%, 3.08%]	[1,645, 2,554]	[0.30%, 4.41%]	[6,406, 9,643]	[1.27%, 1.84%]	[3,024, 4,397]
Oklahoma	[0.13%, 2.09%]	[7,960, 14,042]	[0.16%, 2.36%]	[961, 1,623]	[0.17%, 2.55%]	[343, 584]	[0.22%, 3.48%]	[1,749, 3,065]	[0.72%, 1.21%]	[2,818, 4,739]
South Carolina	[0.11%, 1.64%]	[7,647, 14,681]	[0.13%, 2.10%]	[3,701, 7,334]	[0.12%, 1.86%]	[229, 442]	[0.18%, 2.70%]	[916, 1,759]	[0.63%, 1.21%]	[430, 823]

How Many Adults and Youth Identify as Transgender in the United States? | 25

	WHITE		BLACK		ASIAN		LATINX		ALL OTHER RACE/ ETHNICITY GROUPS	
STATE	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]	PERCENT [LB, UB]	NUMBER [LB, UB]
Tennessee	[0.12%, 1.90%]	[9,335, 29,154]	[0.14%, 2.29%]	[2,312, 7,483]	[0.13%, 2.15%]	[257, 817]	[0.21%, 3.07%]	[952, 2,757]	[0.48%, 1.39%]	[440, 1,274]
Texas	[0.09%, 1.40%]	[22,375, 41,846]	[0.11%, 1.73%]	[7,461, 13,921]	[0.10%, 1.61%]	[2,997, 5,679]	[0.15%, 2.30%]	[30,120, 56,217]	[0.48%, 0.85%]	[1,850, 3,304]
Virginia	[0.11%, 1.66%]	[13,200, 22,700]	[0.13%, 1.95%]	[4,747, 7,973]	[0.11%, 1.85%]	[1,506, 2,721]	[0.17%, 2.62%]	[2,811, 4,811]	[0.69%, 1.15%]	[1,113, 1,869]
West Virginia	[0.10%, 1.58%]	[3,532, 7,157]	[0.10%, 1.75%]	[148, 328]	[0.10%, 1.60%]	[30, 66]	[0.14%, 2.25%]	[62, 132]	[0.52%, 1.07%]	[99, 202]
NORTHEAST	[0.32%, 0.77%]	[95,512, 228,717]	[0.41%, 0.80%]	[19,939, 38,770]	[0.41%, 0.79%]	[12,302, 23,768]	[0.54%, 1.03%]	[31,838, 60,733]	[0.69%, 1.44%]	[6,423, 13,528]
Connecticut	[0.12%, 1.84%]	[6,772, 11,623]	[0.15%, 2.35%]	[1,234, 2,130]	[0.14%, 2.14%]	[546, 909]	[0.19%, 2.93%]	[2,380, 3,936]	[0.72%, 1.21%]	[419, 700]
Maine	[0.13%, 1.95%]	[1,350, 20,093]	[0.16%, 2.39%]	[19, 295]	[0.18%, 2.88%]	[25, 399]	[0.20%, 3.13%]	[34, 526]	[0.25%, 3.89%]	[60, 933]
Massachusetts	[0.15%, 2.32%]	[14,764, 33,486]	[0.18%, 2.86%]	[1,697, 3,818]	[0.18%, 2.80%]	[1,696, 3,831]	[0.24%, 3.79%]	[3,514, 8,027]	[0.72%, 1.64%]	[1,052, 2,382]
New Hampshire	[0.13%, 2.13%]	[1,344, 21,355]	[0.16%, 2.52%]	[22, 342]	[0.15%, 2.28%]	[45, 683]	[0.22%, 3.36%]	[83, 1,251]	[0.30%, 4.48%]	[53, 796]
New Jersey	[0.12%, 1.90%]	[12,037, 29,622]	[0.15%, 2.41%]	[3,455, 8,423]	[0.13%, 2.11%]	[2,255, 5,651]	[0.19%, 2.98%]	[6,451, 15,533]	[0.65%, 1.53%]	[819, 1,927]
New York	[0.11%, 1.79%]	[32,028, 46,924]	[0.14%, 2.16%]	[9,675, 13,955]	[0.14%, 2.17%]	[6,346, 8,788]	[0.18%, 2.73%]	[15,592, 22,256]	[0.75%, 1.04%]	[2,733, 3,780]
Pennsylvania	[0.13%, 1.95%]	[22,840, 57,720]	[0.15%, 2.41%]	[3,566, 9,310]	[0.14%, 2.31%]	[1,191, 3,135]	[0.20%, 3.13%]	[2,948, 7,707]	[0.59%, 1.50%]	[998, 2,511]
Rhode Island	[0.14%, 2.19%]	[2,641, 4,781]	[0.18%, 2.76%]	[245, 449]	[0.18%, 2.90%]	[163, 311]	[0.22%, 3.36%]	[773, 1,385]	[0.83%, 1.45%]	[206, 359]
Vermont	[0.13%, 2.05%]	[1,735, 3,114]	[0.16%, 2.69%]	[26, 48]	[0.14%, 2.20%]	[34, 60]	[0.22%, 3.58%]	[63, 113]	[0.77%, 1.29%]	[84, 141]

Note: White, Black, and Asian are non-Hispanic. The Latinx category includes Hispanic and Latinx people of any race. All other race/ethnicity groups are non-Hispanic.

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF TEXAS AMARILLO DIVISION

SUSAN NEESE, M.D., ET AL.,

Plaintiffs,

v.

Case No.

XAVIER BECERRA, ET AL.,

2:21-cv-163-Z

Defendants.

VIDEOTAPED DEPOSITION OF

SUSAN NEESE

DATE: Friday, July 22, 2022

TIME: 9:05 a.m.

LOCATION: Remote, via Zoom

REPORTED BY: Josh Divers, Videographer

Merienne Gasca, Notary Public

JOB No.: 5329209

A P P E A R A N C E S

ON BEHALF OF PLAINTIFFS SUSAN NEESE, M.D., ET AL.:

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1 I N D E X

2 EXAMINATION: PAGE

3 By Mr. Newman 7

4

5 E X H I B I T S

6 NO. DESCRIPTION PAGE

7 Exhibit 1 First amended complaint
8 class action 09

9 Exhibit 2 Department of Health and Human
10 Services 42 USC section 18116(a) 20

11 Exhibit 3 Answers to First Set
12 of Interrogatories 23

13

14

15 (Exhibits attached.)

16

17

18

19

20

21

22

P R O C E E D I N G S

REPORTER: Good morning. My name is Merienne Gasca; I'm the reporter assigned by the company to take the record of this proceeding. We are now on the record at 9:05 a.m.

This is the deposition of Dr. Susan Neese taken in the matter of Susan Neese MD et al vs. Xavier Becerra et al on July 22, 2022 at Amarillo, Texas 79106. The reporter is located at Leander, Texas.

I am a notary authorized to take acknowledgements and administer oaths in Texas. Parties agree that I will swear in the witness remotely outside of his or her presence.

Additionally, absent an objection on the record before the witness is sworn, all parties and the witness understand and agree that any certified transcript produced from the recording of this proceeding:

- is intended for all uses permitted under applicable procedural and evidentiary rules and laws in the same

1 manner as a deposition recorded by
2 stenographic means; and
3 - shall constitute written stipulation
4 of such.

5 This proceeding will also be recorded
6 via video technology by Josh Divers.

7 At this time will everyone in
8 attendance please identify yourself for the record,
9 beginning with Mr. Newman.

10 MR. NEWMAN: Hi, I'm Jeremy Newman with
11 U.S. Department of Justice.

12 MS. NEESE: Hi, I'm Dr. Susan Neese.

13 MR. MITCHELL: Jonathan Mitchell with
14 Mitchell Law, PLLC.

15 REPORTER: Thank you. Hearing no
16 objection, I would now swear in the witness. Dr.
17 Neese please raise your right hand.

18 WHEREUPON,

19 SUSAN NEESE,
20 called as a witness, and having been first duly sworn
21 to tell the truth, the whole truth and nothing but the
22 truth, was examined and testified as follows:

1 REPORTER: Please proceed.

2 MR. NEWMAN: Thank you.

3 EXAMINATION

4 BY MR. NEWMAN:

5 Q Dr. Neese, my name is Jeremy Newman. I'm an
6 attorney with the US Department of Justice. I
7 represent the Defendants in this case, Xavier Becerra,
8 secretary of the US Department of Health and Human
9 Services in the United States of America.

10 And I may use the acronym HHS to refer to
11 the Department of Health and Human Services during
12 this deposition. All right. Dr. Neese, have you ever
13 been deposed before?

14 A Yes.

15 Q About how many times?

16 A Once.

17 Q What was the name of the case?

18 A I don't recall the name of the case. It was
19 probably 20 years ago.

20 Q What was it about?

21 A It was an elderly patient in mind that had
22 been taken advantage of by a caregiver that had stolen

1 all her money.

2 Q All right. So, I will -- since it's been a
3 while, I'll go through some of the general ground
4 rules of the deposition. Do you understand that
5 you're under oath?

6 A Yes.

7 Q Do you understand you have the same
8 obligation to tell the truth as if you were testifying
9 in a courtroom?

10 A Yes.

11 Q Okay. I'll be asking you some questions.
12 If you don't understand the question, you can tell me
13 that you don't understand or ask me to clarify the
14 question. Do you understand?

15 A Yes.

16 Q But if you answer a question, I'll assume
17 that you understood the question, okay?

18 A Yes. Okay.

19 Q And if there are any technical issues with
20 the remote deposition setup like you can't hear me or
21 you can't access the exhibits, please let me know,
22 okay?

1 A Okay.

2 Q And if you don't know the answer to a
3 question you can answer that you don't know. And if
4 you don't remember or recall the answer to a question
5 you can answer that you don't remember or you don't
6 recall it, do you understand?

7 A Yes.

8 Q And since the Court Reporter is taking down
9 a transcript, we need to provide -- you need to
10 provide clear verbal answers, for example, yes or no,
11 rather than a nod or shrug or uh-huh or uh-uh. Do you
12 understand?

13 A Yes.

14 Q And try not to speak too fast or to speak
15 over me. Please allow me to finish my question before
16 you start to answer and in turn, I'll let you complete
17 your answer before I start my next question, okay?

18 A Okay.

19 Q And if at any point you wish to correct an
20 earlier answer, you can let me know, okay?

21 A Okay.

22 Q Your counsel, Mr. Mitchell might object to

1 some of my questions. If he objects, you still need
2 to answer the question unless Mr. Mitchell
3 specifically instructs you not to answer the question,
4 do you understand?

5 A Yes.

6 Q And if you need to take a break for any
7 reason, just let me know and we'll do so. The only
8 exception is if there's a pending question then I'll
9 ask you to answer the question before we take the
10 break. All right.

11 MR. NEWMAN: So, I'm going to introduce
12 Exhibit 1 so just give me a second to do that. Okay.
13 I believe that I have introduced Exhibit 1.

14 (Exhibit 1 was marked for
15 identification.)

16 BY MR. NEWMAN:

17 Q Dr. Neese, can you please let me know if
18 you're able to view the exhibit?

19 A Yes. I can see.

20 Q Okay. So, I've just introduced Exhibit 1
21 which is a document titled, first amended complaint
22 class action. And I'll ask you some questions about

1 this document.

2 And I'll direct you to specific parts of the
3 document that if you'd like, you can take some time to
4 look at the document before I begin asking some
5 questions.

6 A Okay.

7 Q I'll start with some general questions about
8 the document. Do you recognize this document?

9 A Yes.

10 Q What is it?

11 A It's my case. My complaint.

12 Q Have you read this document before?

13 A Actually, this is not the same one that I
14 have, I think but let me see -- let me look. Okay.
15 No, I don't recognize this document. This isn't the
16 same one that I had. This -- I thought this was
17 something else.

18 Q Okay.

19 A I'm assuming it's the case. Yes. Okay. I
20 can read it real quick. I was thinking of a different
21 one. I'm sorry.

22 Q So, have you ever read this document before?

1 A No.

2 Q Can you turn to page one and in the upper
3 left corner of page one, there are listed three names
4 as Plaintiffs, Susan Neese MD, James Hurley, MD and
5 Jeffrey Barke, MD. Do you see that?

6 A Yes, sir.

7 Q Are you the Susan Neese, MD listed on this
8 document?

9 A Yes.

10 Q This document says you are one of the
11 Plaintiffs.

12 A Yes.

13 Q Do you know what a Plaintiff is?

14 A Yes.

15 Q What's your understanding of what a
16 Plaintiff is?

17 A Someone who has a complaint that brings a
18 lawsuit.

19 Q Does this document contain the allegations
20 and claims in the lawsuit that you filed?

21 A Yes.

22 Q Why did you file this lawsuit?

1 A Because I want to be able to treat my
2 patients based on standard of care and my ethical
3 beliefs without fear of losing my federal funding or
4 other physicians losing their federal funding for
5 trying to do their best thing for their patients.

6 Q So, I'm not asking you to -- sorry.

7 A Go ahead.

8 Q I'm not asking you disclose the substance of
9 your communications with your counsel, but what did
10 you do to prepare for filing this lawsuit?

11 A Discussed several patients and issues that I
12 had with several of my patients. I mean, I didn't
13 give them any names of my patients, just what I
14 thought was wrong with the discrimination.

15 What's the word I'm looking for? With the
16 potential for being accused of being discriminatory
17 against my patients.

18 Q Did you do anything to make sure that the
19 allegations in this document were accurate?

20 A I haven't done anything specific.

21 Q Other than --

22 A I don't understand what you're asking me.

1 Q I'm asking whether you took any steps before
2 this document was filed to ensure that the factual
3 allegations made in this document were true.

4 A I don't remember reading this specific
5 document. I don't recall read in this specific
6 document.

7 Q Other than your counsel, did you talk to
8 anyone about the lawsuit before filing the lawsuit?

9 A No.

10 Q Other than your counsel, have you talked to
11 anyone about the lawsuit since filing the lawsuit?

12 A No. I told my husband I had to give a
13 deposition today.

14 Q Okay. So, I'd like to direct your attention
15 to the introductory paragraph on page one under where
16 it says, "First amended complaint class action." The
17 paragraph that begins with section 1557.

18 That paragraph reads, "Section 1557 of the
19 Affordable Care Act prohibits sex discrimination in
20 any health program or activity that receives federal
21 financial assistance. See 42 USC Section 18116.

22 On May 10, 2021, Secretary Becerra announced

1 that the Department of Health and Human Services, HHS,
2 will interpret and enforce section 1557 to prohibit,
3 one, discrimination on the basis of sexual
4 orientation, and two, discrimination on the basis of
5 gender identity.

6 See Exhibit 1, the secretary's
7 interpretation of section 1557 is incompatible with
8 the statutory language and the court should declare it
9 so and then join the secretary from using or enforcing
10 this interpretation of section 1557." Do you see
11 that?

12 A Yes.

13 Q What is section 1557 of the Affordable Care
14 Act?

15 A Well, just what it says, that they wanted --
16 that you're not able to discriminate based on sex,
17 race, gender identity, et cetera.

18 Q Have you read section 1557 of the Affordable
19 Care Act?

20 A Not fully. I think at the very beginning we
21 went over it.

22 Q What's your understanding of what section

1 1557 says?

2 A That you are not able to -- you're not
3 allowed to discriminate based on age, sex, gender,
4 identity, race, religion.

5 Q In your view, how is Secretary Becerra's
6 interpretation of section 1557 incompatible with the
7 statutory language?

8 A I don't understand that question.

9 Q Well, the lawsuit, the paragraph I just read
10 said the secretary's interpretation of section 1557 is
11 incompatible with the statutory language. Do you have
12 an understanding of why you have alleged in this
13 lawsuit that the secretary's interpretation is
14 incompatible with the statutory language?

15 A Repeat that one more time.

16 Q Do you have an understanding of why the
17 secretary's interpretation of section 1557 is
18 incompatible with the statutory language as you allege
19 in the lawsuit?

20 A My issue with it or what my understanding
21 is, is that if I don't treat my transgender patients
22 based on their gender identity versus their biologic

1 identity, that I could be held or considered
2 discriminating against my patients. That's what my
3 understanding is.

4 Q What's your understanding of what you're
5 asking the court to do in this lawsuit?

6 A Is to make sure that if I treat my patients
7 based on their biologic identity for their needs,
8 versus what their gender identity is, that I am not
9 considered and based -- treating my patients based on
10 what is scientifically proven and the best practices
11 that I will not be considered discriminating against
12 my patients.

13 Q At page one of this document here at the top
14 there's a title first amended complaint class action.
15 Do you see that?

16 A Yes.

17 Q What's your understanding of what a class
18 action is?

19 A Where it's to multiple Plaintiffs to protect
20 the rights of multiple people. I mean, who have the
21 same beliefs, I guess, or the same views or the same
22 issue. I guess that would be the word.

1 Q Why did you decide to file this lawsuit with
2 a class action?

3 A Because I think this affects just more than
4 me. I think it's an issue that could be -- it could
5 be for physicians across the country could be held or
6 considered discriminatory if they're treating patients
7 based on their biologic sex.

8 Q Are you familiar with the Supreme Court
9 decision called Bostock v. Clayton County?

10 A Just what's in here, but no. No, I'm not.

11 Q Have you read that Supreme Court decision?

12 A No.

13 Q Have you read anything about that Supreme
14 Court decision?

15 A No.

16 Q Do you have any understanding about what the
17 Supreme Court ruled in that decision?

18 A No.

19 Q Okay. Please turn to page nine of the
20 document. And I am going to ask you about paragraph
21 38, which is in the middle of the page.

22 A Yes.

1 Q Paragraph 38 reads, "Dr. Neese, Dr. Hurley
2 and Dr. Barke seek to represent a class of all health
3 care providers subject to Section 1557 of the
4 Affordable Care Act." Do you see that?

5 A Yes, sir.

6 Q What's your understanding of what it means
7 for a Plaintiff to represent a class?

8 A That you are representing the -- I don't
9 know how to say it. Excuse me. That you are wanting
10 to do the right thing for the majority of people to
11 protect our whole profession.

12 Q What's your understanding of what your
13 responsibilities would be as a class representative?

14 A That I just want to clarify our legal rights
15 to take care of our patients without worrying about
16 losing funding because we may be considered
17 discriminatory and -- I don't know how to answer that
18 question.

19 Q What's your understanding of who is in the
20 class proposed in paragraph 38?

21 A Healthcare professionals -- all healthcare
22 professionals.

1 Q All healthcare professionals?

2 A Yes.

3 Q Okay.

4 MR. NEWMAN: I am going to introduce
5 another exhibit so just give me a minute to do that.

6 Okay. I have just introduced Exhibit 2.

7 (Exhibit 2 was marked for
8 identification.)

9 BY MR. NEWMAN:

10 Q Are you able to see it Dr. Neese?

11 A Not yet, no. Let me refresh. I don't have
12 anything on my end showing up.

13 Q Okay.

14 REPORTER: I can see it. Dr. Neese,
15 try refreshing your page again. If you go back to the
16 marked folder exhibit.

17 THE WITNESS: All right. Okay. There
18 it is. Let me pull it up. Okay.

19 MR. NEWMAN: Okay.

20 BY MR. NEWMAN:

21 Q So, I've just introduced Exhibit 2. This
22 document was filed as an exhibit to the first amended

1 complaint. It is titled Department of Health and
2 Human Services 42 USC Section 18116(a).

3 Notification of interpretation and
4 enforcement of section 1557 of the Affordable Care Act
5 and Title Nine of the Education Amendments of 1972.

6 And I may refer to this document as the notification.

7 Again, take your time if you need to look
8 over the document and then I'll ask you some questions
9 about it. Dr. Neese, have you ever seen this document
10 before?

11 A No.

12 Q Have you ever read this document before?

13 A No.

14 Q Do you know what this document is?

15 A No, I mean...

16 Q Do you have any understanding of what this
17 document has to do with the claims in your lawsuit?

18 A Is it clarifying section 1557? I...

19 Q So, you don't have any understanding of what
20 this document has to do with the claims in your
21 lawsuit?

22 A Well, it says it prohibits discrimination on

1 the basis of sexual orientation and gender identity --

2 Q And so --

3 A -- and enforce it. So, let me read a little
4 bit more?

5 Q Sure.

6 A Okay. I've read the rest of it, sorry.

7 Q Is it -- do you have an understanding of
8 what this document has to do with the claims in your
9 lawsuit?

10 A No.

11 Q All right. In your view, does this document
12 contain any incorrect legal interpretations?

13 A No. But I don't know how to interpret
14 things legally.

15 Q I'd like to direct your attention to the
16 middle of the first page where it says summary. After
17 summary is the following paragraph, "This notification
18 is to inform the public that consistent with the
19 Supreme Court's decision and Bostock Entitle 9,
20 beginning May 10, 2021.

21 The Department of Health and Human Services,
22 HHS, will interpret and enforce section 1537's

1 prohibition on discrimination on the basis of sex to
2 include, one, discrimination on the basis of sexual
3 orientation, and two, discrimination on the basis of
4 gender identity." Do you see that?

5 A Yes, sir.

6 Q Okay. And we'll get to gender identity
7 later but I want to start by asking you about sexual
8 orientation. Have you ever engaged in any conduct
9 that you believe would constitute discrimination on
10 the basis of sexual orientation as that phrase is used
11 in this document?

12 A No.

13 Q Have you ever engaged in any conduct that
14 you believe secretary Becerra would regard as
15 discrimination on the basis of sexual orientation?

16 A No.

17 Q Is there any conduct that you believe you're
18 likely to engage in in the future with respect to a
19 gay, lesbian or bisexual patient that you believe
20 would constitute discrimination on the basis of sexual
21 orientation as that phrase is used in this document?

22 A No.

1 Q When HHS stated that and interpreted section
2 1557 to prohibit discrimination on the basis of sexual
3 orientation, do you believe that harmed you have any
4 way?

5 A No.

6 Q If the Judge issues a ruling in this case
7 saying that it is permissible for healthcare providers
8 to discriminate on the basis of sexual orientation, do
9 you believe that would benefit you in any way?

10 A Repeat that one more time.

11 Q If the Judge if the judge issues a ruling in
12 this case saying that it's permissible for healthcare
13 providers to discriminate on the basis of sexual
14 orientation, do you believe that would benefit you in
15 any way?

16 A No.

17 Q Okay.

18 MR. NEWMAN: I am going to introduce
19 another exhibit. Okay. I have just introduced
20 Exhibit 3.

21 (Exhibit 3 was marked for
22 identification.)

1 BY MR. NEWMAN:

2 Q Can you please let me know when you're able
3 to view the exhibit documents?

4 A Yes, I have it.

5 Q Okay. And this document is titled,
6 Plaintiff Susan Neese's answers to first set of
7 interrogatories. Have you seen this document before?

8 A Yes.

9 Q Have you read this document before?

10 A Yes.

11 Q What is this document?

12 A The answers to the questions that I was
13 given.

14 Q Okay. Please turn to page 12 of the
15 document and let me know when you're there.

16 A I'm there.

17 Q Okay. On that page, it says verification.
18 I declare under penalty of perjury that the answers to
19 these interrogatories are true and correct. And then
20 it says DocuSign by Susan Neese. Do you see that?

21 A Yes.

22 Q And you're the Susan Neese who

1 electronically signed that document?

2 A Yes, sir.

3 Q So, did you do something on a computer or
4 electronic device to cause that electronic signature
5 to be added on that document?

6 A Yes.

7 Q Okay. What is your understanding of what
8 you were representing when you electronically signed
9 this document?

10 A My answers to my complaint.

11 Q What did you do to make sure that the
12 answers to the interrogatories in this document were
13 true and correct?

14 MR. MITCHELL: And Dr. Neese, may I
15 just instruct you not to disclose the contents of
16 conversations you've had with me or my co-counsel when
17 answering the question.

18 THE WITNESS: Okay. I just answered
19 questions truthfully.

20 MR. NEWMAN: Okay.

21 BY MR. NEWMAN:

22 Q Sitting here right now are you aware of any

1 statements in these interrogatory answers that were
2 not correct?

3 A No.

4 Q Okay. So, please turn back to page one.
5 And I'm going to ask you about your response to
6 interrogatory number one. In that answer you wrote,
7 "I practice general internal medicine for adults."

8 Can you explain to me what is general internal
9 medicine?

10 A General internal medicine is specialized in
11 adult medicine or teenagers and adults medicine. We
12 treat a broad range. We are diagnosticians
13 essentially and treat chronic medical conditions long
14 term throughout somebody's life. Kind of like a
15 pediatrician before adults.

16 Q And when you wrote that you practice general
17 internal medicine for adults, what did you mean by
18 adults?

19 A My age group is 16 and above.

20 Q Okay. So --

21 A That's what I have set at my practice in my
22 office.

1 Q So, you -- do you treat anyone below the age
2 of 16?

3 A No. Actually I have in the past. Yes, I
4 have in the past. I don't believe I have anybody in
5 my practice that's below the age of 16 right now.

6 Q If someone -- if a parent of a patient below
7 the age of 16 asked you to treat their child who's
8 below the age of 16, would you treat a patient below
9 the age of 16?

10 A I don't any longer, no. I refer them to the
11 pediatrician.

12 MR. MITCHELL: Mr. Newman.

13 MR. NEWMAN: Yes.

14 MR. MITCHELL: My internet connection
15 was stuck for the last 5 or 10 seconds so I did not
16 hear the question you asked, Dr. Neese. Could you
17 please repeat it?

18 MR. NEWMAN: It's something along the
19 lines of if you were -- if a parent asked you to treat
20 a patient below the age of 16, would you treat that
21 patient.

22 MR. MITCHELL: Did Dr. Neese answer the

1 question?

2 THE WITNESS: Yes. I said I no longer
3 accept patients under the age of 16.

4 MR. MITCHELL: Thank you.

5 BY MR. NEWMAN:

6 Q About how many patients do you currently
7 have?

8 A There's thousands, two or 3000. I have no
9 idea.

10 Q About how many of your patients are under
11 the age of 18?

12 A It is a minority. I would say probably two,
13 three percent of my practice.

14 Q Okay. I like to direct your attention to
15 interrogatory number two and the interrogatory is on
16 page one and the response is on page two. So, you can
17 take a minute to read over that and then I'll ask you
18 some questions about it.

19 A Okay.

20 Q Do you have several transgender patients in
21 their 30s and 40s?

22 A Yes.

1 Q About how many transgender patients do you
2 have?

3 A Five.

4 Q Do you -- strike that. What's the age range
5 of those patients?

6 A They're all I believe 30 to 40 range.

7 Q Are there any treatments that you object to
8 providing to those adult transgender patients?

9 A I don't know how to answer that. It depends
10 on what the issue is.

11 Q Have any situations come up in which any of
12 those patients have requested any treatment that
13 you've objected to providing?

14 A No. Not that I can recall it. It all
15 depends on -- go ahead.

16 Q About four lines down on page two, you
17 wrote, "In one instance, I declined to take on a new
18 patient who is 16 years old whom I had never seen
19 before and his mother, who's a long standing patient
20 of mine, came to me and asked if I would assist her
21 teenage daughter in obtaining transition hormones.

22 I did not take on this patient because I was

1 not comfortable taking a teenager transition due to
2 the complexity of the medical and emotional issues
3 that case would present and that is not my area of
4 specialty." Do you see that?

5 A Yes, sir.

6 Q Is that the only time that you've been asked
7 to provide gender transition services to a minor?

8 A No. I've had one other instance.

9 Q When was that other instance?

10 A Probably 10 plus years ago I had a patient
11 that was a minor that transitioned over time.

12 Q Can you describe what happened with that
13 patient?

14 A I had taken care of this patient for years,
15 and had him into counseling for his gender dysphoria
16 for years who eventually transitioned from female --
17 male to female over time. I mean, I had a
18 relationship with this patient for 10 years plus.

19 Q Were -- that previous patient, were there
20 any instances in which that patient requested
21 treatment that you refuse to provide?

22 A No. I take that back, we did not start

1 hormone therapy for quite some time. For several
2 years post puberty.

3 Q Now, I'd like to go back to the person that
4 you're talking about in this interrogatory response.
5 And you wrote at the end of the sentence I just read,
6 that is not my area of specialty. Can you explain
7 what you meant by that?

8 A When you have a pubertal -- pre pubertal or
9 a patient that's in puberty, for transgender care you
10 have to put them on puberty blockers and then over
11 time you start them on hormone therapy. I have never
12 done puberty blockers and I'm not familiar with that
13 or comfortable in doing that.

14 And don't -- and I'm quite concerned about
15 the long term ramifications of doing that in young
16 patients. I mean, puberty sometimes starts at 9 years
17 old or sooner for people now.

18 Q As a general matter, do you provide services
19 to patients that are outside your area of specialty?

20 A No.

21 Q Okay.

22 A You mean...

1 Q Now, I'd like to direct your attention to
2 interrogatory number five, and that interrogatory
3 begins on page two and the response is on page three.
4 So, please take a minute to read that and then I'll
5 ask you some questions about it.

6 REPORTER: I think Mr. Mitchell's
7 frozen or has a bad internet connection. I think he's
8 trying to say something.

9 MR. NEWMAN: Mr. Mitchell, can -- are
10 you able to hear what's going on?

11 MR. MITCHELL: I just heard you this
12 last time, but I did not hear Dr. Neese's answer to
13 the question you had asked previously.

14 MR. NEWMAN: Okay. Do you want to keep
15 going or do you want to go off the record for a
16 minute, Mr. Mitchell?

17 MR. MITCHELL: I'm not sure. I've had
18 two instances now where I've had internet issues, it's
19 been otherwise smooth. Are either of you having any
20 problems?

21 MR. NEWMAN: I am not.

22 MR. MITCHELL: So, the problem's

1 probably on my end. Let me -- could we go off the
2 record briefly and I will see if there is a different
3 spot in the house I should go to?

4 MR. NEWMAN: Sure. We can go off the
5 record right now.

6 VIDEOGRAPHER: Going off the record.
7 The time is 9:44.

8 (Recess)

9 VIDEOGRAPHER: Back on the record. Time
10 is 9:53.

11 BY MR. NEWMAN:

12 Q So Dr. Neese, we are discussing Exhibit 3,
13 your interrogatory responses. And I'd like to direct
14 your attention to interrogatory number six. The
15 interrogatory is on page three and your response
16 extends from page three to page five.

17 So, you can take some time to look at that
18 and then I'll ask you some questions about it.

19 A Okay.

20 Q In that response, you described a patient in
21 the late 30s who's a biological female but identifies
22 as male who has refused necessary preventative care

1 that you strongly recommended.

2 I don't want any personally identifying
3 details but can you generally describe your
4 interactions with this patient concerning the
5 preventive care that you've recommended?

6 A Well, I've recommended routine regular
7 pelvic examinations and pap smears per guidelines
8 based on biologic females.

9 And he has continually refused and made
10 appointments for it and then rescheduled and has not
11 been -- we have not been getting -- giving -- he has
12 not been getting the appropriate preventive care
13 because he continues to refuse and now he's having
14 some health issues that are concerning.

15 Q Do you believe that your care for this
16 patient has been medically appropriate?

17 A Yes.

18 Q Do you believe that you -- strike that. Do
19 you believe that you have discriminated against this
20 patient on the basis of his gender identity?

21 A No.

22 Q Do you believe that secretary Becerra would

1 consider your treatment of this patient to constitute
2 discrimination on the basis of gender identity?

3 A I don't know the answer to that. I'm
4 concerned about it.

5 Q Can you explain --

6 A And when I say my care has been medically
7 appropriate for him, he should be having pap smears
8 and pelvic exams. I can't get him to do that. So
9 that's where it's not medically appropriate.

10 I mean, I'm having -- I'm struggling with
11 that. Otherwise his care is fine but we're missing a
12 huge part of his preventive care.

13 Q Can you explain your concern that secretary
14 Becerra might consider your treatment of his patient
15 to constitute discrimination on the basis of gender
16 identity?

17 A Well, I really should terminate my physician
18 patient relationship with this patient because he
19 refuses to allow routine preventive screenings. But
20 am I going to be considered discriminating against
21 this patient because they believe they are a male
22 versus a biologic female. That's my concern.

1 Q So, look back at Exhibit 2 which is the
2 notification of interpretation and enforcement of
3 section 1557 of the Affordable Care Act and Title Nine
4 of the Education Amendments of 1972. Do you have
5 Exhibit 2 up?

6 A I do.

7 Q Can you point to any language in that
8 document that would make you believe that Secretary
9 Becerra might consider your treatment of this patient
10 to be discriminatory?

11 A Patient's gender identity is a male and I'm
12 trying to treat him as a biologic female and do the
13 appropriate thing by him.

14 So, if I'm -- and if I agree to refuse to
15 treat him based on his gender identity because I'm not
16 allowed to treat him based on his biologic, that's
17 where I think he -- that's where I think it looks like
18 I could be discriminating against my patient.

19 Q Can you point to any language in this
20 document that makes you believe that Secretary Becerra
21 might consider your treatment of this patient to be
22 discriminatory?

1 A Just it says discrimination based on gender
2 identity.

3 Q Are you aware of any other statements from
4 Secretary Becerra or the Department of Health and
5 Human Services that makes you concern that Secretary
6 Becerra or HHS would consider your treatment of this
7 patient to be discriminatory?

8 A No.

9 Q So, we've discussed two situations in which
10 you have expressed some concern that Secretary Becerra
11 might conclude that your behavior would constitute
12 discrimination. The first involved overseeing the
13 gender transition of a minor.

14 And the second involves recommending
15 preventive care in accordance with the transgender
16 patient's biological sex.

17 Are there any other situations in which
18 you're concerned that you might engage in conduct that
19 Secretary Becerra would consider to be discrimination
20 on the basis of gender identity?

21 A I'm sure there could be several. I can't
22 come up with any right now.

1 Q In your view, what does it mean to
2 discriminate against a patient on the basis of gender
3 identity?

4 A That you do not go along with their belief
5 that they are fully female or fully male. And that if
6 you don't do what they want as their gender identity
7 sex versus what needs to be done based on their
8 biologic sex, am I being discriminatory?

9 Am I discriminating because they believe
10 that they are this sex when biologically they're this
11 sex and I'm treating them based biologically on that
12 sex. Trying to do no harm.

13 Q So, do you believe that in that situation,
14 Secretary Becerra would deem it to be discrimination
15 on the basis of gender identity to treat the patient
16 as you described in line with their biological sex?

17 A I don't know. I think that needs to be
18 elucidated. It's not specific enough.

19 Q Do all doctors in this country agree about
20 when it is appropriate to provide gender transition
21 services to transgender individuals?

22 A No. There's no set standard.

1 Q Is -- do doctors and does -- strike that.
2 Do some doctors disagree about when it's appropriate
3 to provide gender transition services to transgender
4 individuals?

5 A Yes, I believe so.

6 Q Is it fair to say that there are a wide
7 range of different views among doctors in this country
8 about when it is appropriate to provide gender
9 transition services to transgender individuals?

10 A Yes, I believe so.

11 Q Do all doctors in this country agree about
12 what it means to discriminate against a patient on the
13 basis of gender identity?

14 A I can't answer that. I don't know the
15 answer to that.

16 Q Do --

17 A I think it's confusing.

18 Q Do all doctors in this country agree about
19 whether it should be legal to discriminate against
20 patients on the basis of gender identity?

21 A I don't know the answer to that. What all
22 doctors believe from that standpoint.

1 Q Do you believe that some doctors believe
2 that it should be illegal to discriminate against
3 patients on the basis of gender identity?

4 A Yes.

5 Q Do all doctors in this country have the same
6 views about the notification Exhibit 2 that we've just
7 looked at?

8 A I just missed part of that. The -- have
9 views, what?

10 Q I said do -- have -- do all doctors in this
11 country have the same views about the notification
12 Exhibit 2 that we were previously discussing.

13 MR. MITCHELL: Mr. Newman, I'm going to
14 object to the form of the question. Calls for
15 speculation.

16 BY MR. NEWMAN:

17 Q Do you have any understanding about whether
18 all doctors in this country have the same views about
19 that notification?

20 A I don't know what all doctors believe.

21 Q Take a look back at Exhibit 1, which is the
22 first amended complaint. And in particular, I'd like

1 to direct your attention to page 10 and paragraph 48
2 on page 10.

3 A Okay.

4 Q That paragraph reads, "The court should
5 therefore declare that Section 1557 does not prohibit
6 discrimination on account of sexual orientation and
7 gender identity as Secretary Becerra claims.

8 But that it prohibits only sex
9 discrimination, which means that the provider would
10 have acted differently toward an identically situated
11 member of the opposite biological sex." Do you see
12 that?

13 A I do.

14 Q Do you believe that all doctors in this
15 country would want the court to issue a declaration
16 that Section 1557 does not prohibit discrimination on
17 account of sexual orientation and gender identity?

18 A Do I believe that all doctors?

19 Q Yes.

20 A I think -- say it one more time. I'm sorry.

21 Q Do you believe that all doctors in this
22 country would want the court in this case to declare

1 that Section 1557 does not prohibit discrimination on
2 account of sexual orientation gender identity?

3 A Does not prohibit discrimination on account
4 of sexual orientation and gender identity? Is that
5 what you --

6 Q Let me --

7 A I don't understand what your question is.

8 Q Okay. So, let me rephrase that in different
9 way. You are asking in -- paragraph 48 asked the
10 court to declare that Section 1557 does not prohibit
11 discrimination on account of sexual orientation and
12 gender identity.

13 Do you believe that all doctors in the
14 country would want the court to issue such a
15 declaration?

16 A I don't know what all doctors would want.

17 Q There are many lesbian, gay, bisexual and
18 transgender doctors in this country, correct?

19 A Correct.

20 Q Do you believe that all of the lesbian, gay,
21 bisexual and transgender doctors in this country would
22 want the court to issue a declaration that Section

1 1557 does not prohibit discrimination on account of
2 sexual orientation and gender identity?

3 A I don't believe they would but I can't
4 answer for everybody. But I think it's a complicated
5 issue.

6 Q What do you mean by that that it's
7 complicated issue?

8 A Well, I mean, you're bringing in gay and
9 lesbian versus gender identity, transgender
10 treatments. That's a totally separate issue in my
11 opinion.

12 Q You're not concerned with issues concerning
13 gay and lesbian patients?

14 A What issues?

15 Q Strike that. Are you aware that during the
16 Trump administration, HHS took the legal position that
17 you advocate in this case that Section 1557 does not
18 prohibit discrimination on account of sexual
19 orientation and gender identity?

20 A Yes.

21 Q Are you aware that during the Trump
22 administration, some groups of doctors and medical

1 providers sued HHS to try to get that interpretation
2 set aside as unlawful?

3 A No.

4 Q Are you aware that those groups ask the
5 courts in those cases to rule that Section 1557 does
6 prohibit discrimination on account of sexual
7 orientation and gender identity?

8 A I don't know.

9 Q Do you believe that in this lawsuit, you're
10 adequately representing the interests of doctors and
11 medical providers who disagree with your view that
12 Section 1557 does not prohibit discrimination on the
13 basis of sexual orientation and gender identity?

14 A Yes. I guess I'm a little confused. Say
15 that one more time. I'm getting --

16 Q Do you believe that in this lawsuit, you are
17 adequately representing the interests of the doctors
18 and medical providers who disagree with your view that
19 Section 1557 does not prohibit discrimination on the
20 basis of sexual orientation and gender identity?

21 A Yes.

22 Q How so?

1 A Well, I want to make sure this is clarified
2 that we know what we're talking about when it comes to
3 discrimination against transgender patients.

4 That if I'm doing something that's not based
5 on their -- that I'm doing something that's based --
6 I'm doing appropriate care based on their biologic sex
7 versus what they -- what their gender identity is.

8 I want to make sure that I'm not considered
9 discriminatory if I'm doing the right thing by my
10 patient.

11 Q Do you believe that in your -- in this
12 lawsuit, you are adequately representing the interests
13 of doctors and medical providers who have previously
14 sued HHS under the Trump administration to challenge
15 the legal interpretation that you are offering in this
16 lawsuit?

17 A I don't know the answer to that. I don't
18 know how to answer that.

19 Q Okay.

20 MR. NEWMAN: I have no further
21 questions at this point.

22 MR. MITCHELL: I have no questions

1 either.

2 VIDEOGRAPHER: Going off the video
3 record. The time is 10:10.

4 (Signature Waived.)

5 (Whereupon, at 10:10 a.m., the
6 proceeding was concluded.)
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CERTIFICATE OF NOTARY PUBLIC

I, MERIENNE GASCA, the officer before whom
the foregoing proceedings were taken, do hereby
certify that any witness(es) in the foregoing
proceedings, prior to testifying, were duly sworn;
that the proceedings were recorded by me and
thereafter reduced to typewriting by a qualified
transcriptionist; that said digital audio recording of
said proceedings are a true and accurate record to the
best of my knowledge, skills, and ability; that I am
neither counsel for, related to, nor employed by any
of the parties to the action in which this was taken;
and, further, that I am not a relative or employee of
any counsel or attorney employed by the parties
hereto, nor financially or otherwise interested in the
outcome of this action.

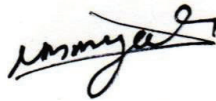


MERIENNE GASCA

Notary Public in and for the
State of Texas

CERTIFICATE OF TRANSCRIBER

I, JIMMY JACOB, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



JIMMY JACOB

[09 - answer]

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[answer - come]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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IN UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

AMARILLO DIVISION

SUSAN NEESE, M.D., et al.,)

)

)

Plaintiffs,)

) CIVIL ACTION NO.

VS.) 2:21-CV-163-Z

)

XAVIER BECERRA, et al.,)

)

Defendants.)

REMOTE ORAL VIDEOTAPED DEPOSITION OF

JAMES HURLY, M.D.

JULY 28, 2022

VOLUME 1

REMOTE ORAL VIDEOTAPED DEPOSITION OF JAMES HURLY,
M.D., produced as a witness at the instance of the Defendants
taken in the above-styled and -numbered cause on the 28th day
of July, 2022, from 2:12 p.m. to 3:30 p.m., before Schias K.
Carmon-Brown, a Certified Shorthand Reporter in and for the
State of Texas, reported by machine shorthand, remotely via
Zoom, pursuant to the Federal Rules of Civil Procedure.

A P P E A R A N C E S

(Via Videoconference)

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ALSO PRESENT:

Ms. Megan King, Videographer

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P R O C E E D I N G S:

THE VIDEOGRAPHER: Good afternoon. We are on the record at 12 -- excuse me -- 2:12 p.m. on July 28th, 2022. This is the deposition of Dr. James Hurly in the matter of Susan Neese, M.D., et al., versus Xavier Becerra, et al., filed in the Northern District of Texas, Amarillo Division, Civil Action Number 2:21-CV-163-Z. Please note this deposition is being conducted virtually. My name is Megan King representing Veritext, and I am the videographer. At this time, Counsel, please state your appearances for the record.

MR. NEWMAN: My name is Jeremy Newman. I'm an attorney with the U.S. Department of Justice for the defendants.

MR. MITCHELL: Jonathan Mitchell from Mitchell Law, PLLC, and I represent the plaintiffs.

THE WITNESS: Dr. James Hurly with Amarillo Pathology Group.

JAMES HURLY, M.D.,

having been first duly sworn, testified as follows:

EXAMINATION

BY MR. HURLY:

Q. My name is Jeremy Newman. I'm an attorney with the U.S. Department of Justice. I represent the defendants in this case, Xavier Becerra, Secretary of U.S. Department of Health and Human Services and the United States of America. And I may

1 refer to the Department of Health and Human Services during
2 this deposition as "HHS." Have you ever been deposed before,
3 Dr. Hurly?

4 A. I have.

5 Q. How many times?

6 A. Twice.

7 Q. And can you explain what were those cases about?

8 A. One was a medical-legal lawsuit. I was just a
9 witness for some pathology that I had read and I was not a
10 defendant or a plaintiff. And the other one was an issue -- a
11 legal issue with the local golf course here where my property
12 was taking some golf balls and endangered my children.

13 Q. Do you understand you're under oath?

14 A. Yes.

15 Q. Do you understand you have the same obligation to
16 tell the truth as if you were testifying in a courtroom?

17 A. Yes.

18 Q. I'll be asking you some questions. If you don't
19 understand a question, you can tell me you don't understand or
20 ask me to clarify the question. Do you understand that?

21 A. Yes.

22 Q. If you answer a question, I'll assume that you
23 understood it. Okay?

24 A. Yes.

25 Q. And if you don't know or -- an answer to a question

1 or if you don't recall the answer to a question, it's okay to
2 answer that you don't know or you don't recall.

3 A. Okay.

4 Q. And the court reporter will be taking down answers to
5 my questions. For that reason, you need to provide clear,
6 verbal answers. For example, "yes" or "no" rather than just a
7 nod or a shrug or an "huh-uh" or "uh-uh." Do you understand?

8 A. Sure. Yes.

9 Q. And so I'll -- try not to speak too fast and try not
10 to speak over me. I'll need to finish my question before you
11 start to answer. And in turn, I'll try to let you complete
12 your answer before I start my next question, okay?

13 A. No problem.

14 Q. And your counsel might object to some of my
15 questions. And if your counsel objects, you still need to
16 answer the question unless your counsel specifically instructs
17 you not to answer the question. Do you understand?

18 A. Understood.

19 Q. If you need to take a break for any reason, just let
20 me know and we'll do so. The only exception is if there's a
21 question pending, then I'll ask you to answer that question
22 before we take a break, okay?

23 A. Okay.

24 Q. All right. So I am going to introduce an exhibit
25 right now. Just give me a minute to do that. Okay. I have

1 just introduced Exhibit 4, which is a document titled, First
2 Amended Complaint Class Action.

3 (Exhibit 4 marked.)

4 Q. (BY MR. NEWMAN) Dr. Hurly, are you able to view the
5 document?

6 A. So when I get onto the Veritext, do I click on a
7 particular file?

8 Q. It -- so it should be in the marked exhibits folder.

9 A. Marked, okay.

10 Q. So Exhibit 4.

11 A. I see it, yeah.

12 Q. Okay. Yes.

13 A. That's our amended complaint. Yeah. I see it.

14 Q. Okay. So I'll start with just some general questions
15 about the document. Do you recognize this document?

16 A. I do.

17 Q. What is it?

18 A. It looks like our first amended complaint in the
19 class action lawsuit against the U.S.

20 Q. Have you read this document before?

21 A. I have.

22 Q. Can you explain the circumstances in which you read
23 this document?

24 A. Well, I just read it at home.

25 Q. Did you -- did you read it before or after it was

1 filed in court?

2 MR. MITCHELL: Mr. Newman, may I just interject
3 briefly and instruct the witness --

4 MR. NEWMAN: Yes.

5 MR. MITCHELL: -- not to disclose any
6 communications he may have had with me or my co-counsel in
7 answering your question.

8 You can answer, Dr. Hurly.

9 A. Can you repeat the question? I'm sorry.

10 Q. (BY MR. NEWMAN) Sure. Sure. Sure. The question
11 was, did you read this document before or after it was filed in
12 court? And then you keep in mind your counsel's instruction
13 not to disclose the communication --

14 A. I'm not sure.

15 Q. Okay. So on page one of the document in the upper
16 left corner, there are listed three names as plaintiffs, Susan
17 Neese, M.D., James Hurly, M.D., and Jeffrey Barke, M.D. Do you
18 see that?

19 A. Yes.

20 Q. Are you the James Hurly, M.D. listed there?

21 A. I am.

22 Q. The document says the you're one of the plaintiffs.
23 Do you know what a plaintiff is?

24 A. Yes, I do.

25 Q. What's a plaintiff?

1 A. Well, I'm initiating a lawsuit, making a claim.

2 Q. So how does -- strike that.

3 Does this document contain allegations in a
4 lawsuit that you filed?

5 A. Yes.

6 Q. Why did you file this lawsuit?

7 A. Well, mainly I think the memo that Xavier Becerra
8 sent out was a little bit unclear to me, but I did that to --
9 really to clarify my obligations and obligations of all
10 physicians under the law because the memo is a bit unclear and
11 to protect and preserve the autonomy of all health care
12 providers to treat transgender patients and patients with
13 gender dysphoria consistent with their ethical beliefs.

14 Q. I'm not asking you to disclose the substance of your
15 communications with counsel, but what did you do to prepare for
16 filing this lawsuit?

17 A. Well, I had some consultations with my attorneys.

18 Q. Have you talked to anyone other than your attorneys
19 about this lawsuit?

20 A. No. I think I may have casually talked to Susan
21 Neese about it, but we didn't discuss the substance because we
22 wouldn't have known anything.

23 Q. So I'd like to direct your attention to the
24 introductory photograph on Page 1, under where it says, First
25 amended complaint class action. The paragraph that begins,

1 Section 1557. That paragraph states, Section 1557 of the
2 Affordable Care Act prohibits sex discrimination in any health
3 program or activity that receives federal financial assistance.
4 See 42 U.S.C Section 18116. On May 10, 2021, Secretary Becerra
5 announced that the Department of Health and Human Services,
6 HHS, will interpret -- interpret and enforce Section 1557 to
7 prohibit, one, discrimination on the basis of sexual
8 orientation and, two, discrimination on the basis of gender
9 identity. See Exhibit 1. The Secretary's interpretation of
10 Section 1557 is incompatible with the statutory language, and
11 the court should declare it so and enjoin the Secretary from
12 using or enforcing this interpretation of Section 1557. Do you
13 see that?

14 A. Yes.

15 Q. What is Section 1557 of the Affordable Care Act?

16 A. Well, from what I understood, it prohibits us -- the
17 main issue that I have is -- that I'm looking at is it
18 prohibits discrimination on the basis of sexual orientation and
19 discrimination on the basis of gender identity basically to
20 prevent discrimination against patients.

21 Q. Have you read it before?

22 A. I have not, no.

23 Q. In your view, how is Secretary Becerra's
24 interpretation of Section 1557 incompatible with the statutory
25 language?

1 A. I think the language is vague and it leaves a lot --
2 leaves open to interpretation a lot of actions which could
3 possibly inappropriately construe physicians as being
4 discriminatory when they're not being discriminatory.

5 Q. What is your understanding of what you're asking the
6 court to do in the lawsuit?

7 A. To clarify the language.

8 Q. In this lawsuit, are you -- strike that.

9 What's your understanding of how you're asking
10 the court to clarify the language?

11 A. Well, I think they should be maybe a little bit more
12 specific.

13 Q. In this lawsuit, are you asking the court to order
14 the federal government to do something or not to do something?

15 A. I believe I'm asking them to do that, yeah, the court
16 to order that.

17 Q. Do you have an understanding of what you're asking
18 the court to order the federal government to do or not to do?

19 A. Yes, to be more specific in their language.

20 Q. On page one near the top, the title of the document
21 is First Amended Complaint Class Action. Do you see that?

22 A. Yeah, I'm going to have to switch other to that. I
23 may lose you guys on the video. Is that okay? So go ahead.
24 Tell me.

25 Q. Do you see where it says, First Amended Complaint

1 Class Action?

2 A. Yes. Correct.

3 Q. What's your understanding of what a class action is?

4 A. Well, that's where you pool -- if you have different
5 plaintiffs, you pool all their complaints into one for
6 simplification.

7 Q. But why didn't you decide to file this lawsuit as a
8 class action?

9 A. Well, I think there were some different issues that a
10 few of us different physicians have and we spoke to the
11 attorneys and thought it would be a good idea to do it as a
12 class action.

13 Q. Are you familiar with the Supreme Court decision
14 called Bostock v. Clayton County?

15 A. Not really. Just very vaguely but, no, not really.
16 I don't read a lot of Supreme Court decisions.

17 Q. Can you describe your vague familiarity with that
18 decision?

19 A. I really have very little familiarity with it.

20 Q. Do you have any sense -- do you have any sense of
21 what the Supreme Court decided in that case?

22 A. No.

23 Q. All right. Turn to page nine of this document. Page
24 nine. I'm going to ask you about paragraph 38, which is in the
25 middle of the page. Paragraph 38 reads, Dr. Neese, Dr. Hurly,

1 Dr. Barke seek to represent a class of all healthcare providers
2 subject to Section 1557 of the Affordable Care Act. Do you see
3 that?

4 A. I do.

5 Q. What is your understanding of what it means for a
6 plaintiff to represent a class?

7 A. Well, I'm representing all physicians, I would think,
8 but I'm representing a class -- a class of people that treat
9 patients under the Affordable Care Act.

10 Q. What is your understanding of what your
11 responsibilities would be as a class representative?

12 A. My responsibilities?

13 Q. Yes.

14 A. To represent their interests and to be honest with my
15 answers.

16 Q. And what's your understanding of who is in the class
17 in paragraph 38?

18 A. Just the three of us physicians.

19 Q. Let me rephrase that. What's your understanding of
20 who is in the -- the -- the class that you hope to represent?

21 A. Sure. I would believe that means all healthcare
22 providers who treat patients that are covered under the
23 Affordable Care Act.

24 Q. Do you have an understanding of which physicians are
25 covered under the Affordable Care Act?

1 A. I would assume that's people that in some way receive
2 reimbursement from the federal government under some -- any
3 type of federal program.

4 Q. Does that include most physicians in the country?

5 A. I would think most of us do some type of care for
6 people that are on Medicare, Medicaid, but I couldn't speak for
7 all physicians.

8 Q. Okay. Thank you. I'm going to introduce another
9 exhibit. Just give me a minute. Okay. I have just introduced
10 Exhibit 5.

11 (Exhibit 5 marked.)

12 Q. (BY MR. NEWMAN) Are you able to see it?

13 A. Yeah. Let me open it. Yeah. I just opened it.
14 Sure.

15 Q. So this document was filed as an exhibit to the first
16 amended complaint. It is titled, Department of Health and
17 Human Services 42 U.S.C. Section 18116A, Notification of
18 Interpretation and Enforcement of Section 1557 of the
19 Affordable Care Act and Title Nine of the Education Amendments
20 of 1972. Have you ever seen this document before?

21 A. I don't believe so.

22 Q. Have you read it before?

23 A. No. I don't believe so.

24 Q. Do you have an understanding of what this document
25 is?

1 A. I could read it real quick and tell you.

2 Q. Oh, yeah. Sorry. Sorry. Go ahead and take as much
3 time as you need to -- to look at it. When you're ready, my
4 question pending is, do you have an understanding of what this
5 document is.

6 A. Sure. Just give me a moment. It looks like Xavier
7 Becerra -- it's a notification or some kind of a clarification
8 on Section 1557 and title -- and title nine explaining the
9 background of the 1557 section of the Affordable Care Act and
10 how that's enforced and kind of defining for patients if they
11 believe -- if any entities violated their civil rights, they
12 can file a complaint. Something to inform patients of their
13 rights.

14 Q. What does this document have to do with the claims in
15 your lawsuit?

16 A. Well, I believe that I would be open to a lawsuit
17 that I was discriminating against someone if I told them that
18 the cancer they have is incompatible with their gender
19 identity.

20 Q. What does this document have to do with the claims in
21 your lawsuit, though?

22 A. Well, it covers your civil rights and whether you
23 could file a complaint that you've been discriminated against.
24 And I'm concerned that if I tell a patient that they have a
25 cancer -- let's say it's a male-specific cancer like prostate

1 cancer and they identify as a woman, they could say that I'm
2 discriminating against them by telling them they're not the sex
3 that they identify with.

4 Q. In your view, does this document contain any
5 incorrect legal interpretations?

6 A. I believe I would say I'm opposed to the language
7 based on how vague it is in Bostock, discrimination on the
8 basis of gender identity. Incorrect language, I would say,
9 yes.

10 Q. Why is that language incorrect, in your view?

11 A. Because the term "discrimination" is not very well
12 defined there.

13 Q. So I'd like to address your attention to the middle
14 of the first page where it says "summary." After "summary" is
15 the following paragraph: This notification is to inform the
16 public that consistent with the Supreme Court's decision in
17 Bostock and Title Nine, beginning May 10, 2021, the Department
18 of Health and Human Services, HHS, will interpret and enforce
19 Section 1557's prohibition on discrimination on the basis of
20 sex to include, one, discrimination on the basis of sexual
21 orientation and, two, discrimination on the basis of gender
22 identity. Do you see that?

23 A. I do.

24 Q. Okay. So I'm going to ask about gender identity
25 later. But for now, I'm going to ask you about the statement

1 that HHS will interpret Section 1557 to prohibit discrimination
2 on the basis of sexual orientation.

3 Have you -- have you ever engaged in any conduct
4 that you believe would constitute discrimination on the basis
5 of sexual orientation as that phrase is used in this document?

6 A. No.

7 Q. Have you ever engaged in any conduct that you believe
8 Secretary Becerra would regard as discrimination on the basis
9 of sexual orientation?

10 A. No.

11 Q. Is there any conduct you believe you are likely to
12 engage in, in the future with respect to a gay, lesbian or
13 bisexual patient that you believe would constitute
14 discrimination on the basis of sexual orientation as that
15 phrased --

16 A. No.

17 Q. -- is used in this document?

18 A. No.

19 Q. When HHS said that it interpreted Section 1557 to
20 prohibit discrimination on the basis of sexual orientation, do
21 you believe that that harmed you in any way?

22 A. No.

23 Q. If the judge in this case issues a ruling stating
24 that it is permissible for health care providers to
25 discriminate on the basis of sexual orientation, do you believe

1 that would benefit you in any way?

2 A. No.

3 Q. Okay. I am going to introduce another exhibit. I
4 have just introduced Exhibit 6.

5 (Exhibit 6 marked.)

6 Q. (BY MR. NEWMAN) This document is titled, Plaintiff
7 James Hurly's Answers to First Set of Interrogatories. Do
8 you -- are you able to see it, Dr. Hurly?

9 A. I am.

10 MR. MITCHELL: Mr. Newman, I'm still trying to
11 pull that exhibit up.

12 MR. NEWMAN: Okay.

13 MR. MITCHELL: Sorry for the delay.

14 THE WITNESS: And, Jonathan, just so you know, I
15 cannot see you when I'm viewing this document.

16 MR. MITCHELL: Okay. Thank you for telling me.
17 I have the exhibit now, Mr. Newman.

18 MR. NEWMAN: Okay. Great.

19 Q. (BY MR. NEWMAN) Okay. So this document is titled,
20 Plaintiff James Hurly's Answers to First Set of
21 Interrogatories.

22 Dr. Hurly, have you seen this document before?

23 A. I have, yeah.

24 Q. Have you read this document before?

25 A. Yes.

1 Q. What is this document?

2 A. These are answers to a series of questions that were
3 posed to me, I think, by the U.S. attorney's office or
4 Department of Justice.

5 Q. Okay. Can you please turn to page nine of the
6 document?

7 A. Sure.

8 Q. That page states, Verification. I declare under
9 penalty of perjury that the answers to the interrogatories are
10 true and correct. And it says, DocuSigned by James Hurly. Do
11 you see that?

12 A. Yeah, I see -- I see that.

13 Q. Did you do something on a computer or electronic
14 device to cause that electric signature to be entered?

15 A. Yes. That's my signature.

16 Q. What were you representing when you electronically
17 signed this document?

18 A. That I was being truthful to my questions -- the
19 questions put to me.

20 Q. What did you do to make sure that the answers to the
21 interrogatories were true and correct?

22 A. I answered --

23 MR. MITCHELL: Dr. Hurly, just let me instruct
24 you not to disclose -- do not disclose communications between
25 you and your counsel in answering Mr. Newman's question.

1 THE WITNESS: Sure.

2 A. Just to be truthful, just to answer truthfully.

3 Q. (BY MR. NEWMAN) Okay. Please turn back to page one,
4 and I'm going to ask you about your response to interrogatory
5 number one.

6 A. Sure. Yeah, I see it.

7 Q. In that answer, you wrote, I am a community-based
8 pathologist certified in anatomic and clinical pathology. Do
9 you see that?

10 A. I do.

11 Q. What is a community-based pathologist?

12 A. Well, I work in a community -- in the community
13 hospital rather than a university hospital. So basically it's
14 a community versus university hospital, private slash public
15 hospital.

16 Q. What is a pathologist?

17 A. Pathologist comes from the Greek meaning study of
18 disease. So I am -- I am a diagnostician. I am a consultant
19 for other physicians that handles bodily fluids and bodily
20 tissues.

21 Q. What is anatomic and clinical pathology?

22 A. Anatomic -- I'm in the middle of deposition. One of
23 my children. Sorry.

24 So "anatomic" has to do with actual structural
25 tissues. "Clinical" has to do more with analyzing blood and

1 fluids. Counting cells or, you know, giving some numeric value
2 to blood such as serum lipid profile, cholesterol, something
3 like that. So those are the differences.

4 Q. Can you generally describe the services that you
5 perform in your medical practice?

6 A. I interpret fluids and tissues from all areas of the
7 body from the brain to the skin to the bone marrow to the liver
8 to the lungs, basically any part of the human body. And I do
9 that microscopically. And I also provide the -- the
10 certification and guarantee the quality of the clinical
11 laboratory that I serve that all results coming from the
12 various branches of the laboratory are true and correct, and
13 that would include blood bank, chemistry, microbiology,
14 immunology, serology and things like that.

15 Q. So now please look at interrogatory number two, which
16 begins at the bottom of page one, and then your answer is on
17 page two.

18 A. Uh-huh.

19 Q. So in your answer you wrote, I do not directly treat
20 patients. As a pathologist, I analyze lab work to confirm a
21 patient's diagnosis for their treating physician. Do you see
22 that?

23 A. Correct.

24 Q. Can you explain the difference between a treating
25 physician and a pathologist?

1 A. Well, I would say that I'm not a clinician. We use
2 the term "clinician." I'm more of a consultant for the
3 clinician. So I don't directly see the pathologist. I'm sort
4 of the secondary physician that diagnoses -- diagnoses and
5 gives treatment -- diagnoses and treatment and recommendations
6 to the physicians who have done the sampling.

7 Q. I believe in your answer you said, I don't directly
8 see the pathologist. Did you mean, I don't directly see the
9 patient?

10 A. I do not directly treat patients as a pathologist. I
11 analyze lab work and confirm the patient's diagnosis for their
12 treating physician. Yeah.

13 Q. So how do you -- how do you obtain your patients?

14 A. Obtain my -- doesn't make sense. Obtain --

15 Q. How do you get -- how do you get your work? How do
16 you get patients?

17 A. They send them to us. The clinicians relay the
18 tissues to us.

19 Q. Do you determine what tests to run for patients or
20 does the treating physician determine that?

21 A. They generally will determine that. On occasion,
22 they will consult with me to order proper lab tests, but
23 generally they determine that.

24 Q. Do you meet directly with patients?

25 A. Very rarely. Very rarely.

1 Q. How often?

2 A. Oh, gosh, maybe once or twice in my career.

3 Q. So suppose that based on lab work you -- you
4 diagnosed a patient with a certain condition, who do you
5 deliver that diagnosis to?

6 A. To the physician that ordered the test.

7 Q. And then your understanding is that the physician
8 would deliver the diagnosis to the patient?

9 A. Correct.

10 Q. Do you perform any kind of surgery on any patients?

11 A. I do not.

12 Q. Do you provide hormone therapy -- do you provide
13 hormone therapy of any kind to any patients?

14 A. No, I do not.

15 Q. So please look at interrogatory number eight, which
16 begins at the bottom of page two and your answer is on page
17 three. In your answer, you wrote, In my practice, I have
18 encountered situations in which patients have denied a
19 diagnosis wrongly claiming they cannot have it because they are
20 no longer of a particular gender. For example, my group once
21 diagnosed a biologic male patient with prostate cancer but the
22 patient refused to accept this diagnosis because he identified
23 as a woman and insisted that he could not have a prostate and
24 that he had a cervix instead. We had to firmly explain to this
25 patient that he was indeed a biologic man with a prostate, and

1 that he needed to seek urgent medical treatment for his
2 prostate cancer. Do you see that?

3 A. I do.

4 Q. So the first sentence of this response says, I have
5 countered -- encountered situations, plural, and then you
6 describe one --

7 A. Yeah. It's one -- yeah. It's one situation. I have
8 had one encounter.

9 Q. Okay. So there -- other than the example you
10 describe, there have been no other examples of someone wrongly
11 claiming that they can't have a diagnosis because of their --

12 A. No, only one so far.

13 Q. Okay. Can you just describe generally what happened
14 with the patient that you describe in this answer?

15 A. I was informed by one of our secretaries who took a
16 phone call directly from the patient that the patient was
17 arguing with her and in denial that they had a prostate cancer
18 because they were a woman and it was not possible that they
19 could have prostate cancer and it must be a misdiagnosis and it
20 should be either cervical or endometrial cancer.

21 Q. Did you deliver the diagnosis directly to the
22 patient?

23 A. No, I did not. Our secretary handled that. And I'm
24 not sure which pathologist in our group made that diagnosis.

25 Q. So you did not make the diagnosis to that patient?

1 A. I may have but I don't know. There's seven of us
2 pathologists, so it may have been me.

3 Q. Did you ever have any interaction with this patient?

4 A. No.

5 Q. Do you know -- strike that.

6 What did your secretary tell you about what the
7 patient had said?

8 A. Repeated that the patient was in denial that they
9 could possibly have prostate cancer, since they were a woman.

10 Q. Do you know -- do you know what -- how the secretary
11 responded to the patient?

12 A. I couldn't give you specifics. I would be
13 paraphrasing. But she assured the patient that it was prostate
14 cancer.

15 Q. Do you know what happened to this patient after this
16 interaction over the phone?

17 A. No, sir, I have no idea.

18 Q. Do you believe that your group's care for this
19 patient was medically appropriate?

20 A. Yes.

21 Q. Do you believe that your group -- strike that.

22 Based on your personal understanding of what it
23 means to discriminate on the basis of gender identity, do you
24 believe that your group discriminated against this patient on
25 the basis of gender identity?

1 A. Absolutely not. We did not discriminate on the basis
2 of gender identity.

3 Q. Why do you believe that?

4 A. Well, because our job is to take care of patients and
5 ensure their health and safety. And that is our first job is
6 to do no harm, so we have to be accurate with our diagnoses.

7 Q. Do you believe that Secretary Becerra would consider
8 your group's treatment of this patient would constitute
9 discrimination on the basis of gender identity?

10 A. I think that very well could happen.

11 Q. Why do you believe that?

12 A. Well, I have seen people have lawsuits filed or even
13 jailed for using incorrect pronouns. So if language, the free
14 speech First Amendment rights become jeopardized by a federal
15 act, then I would think that my diagnosis would be open to that
16 same interpretation and I might be considered criminal that I
17 diagnosed someone with an organ that they claim they don't
18 have.

19 Q. Can you take a look back at Exhibit 5, which is the
20 notification of interpretation and enforcement of Section 1557?

21 A. Yeah, I see it.

22 Q. Can you point to any language in that document that
23 makes you believe that Secretary Becerra would consider your
24 group's treatment of this patient to constitute discrimination?

25 A. This is interrogatory number five?

1 Q. Sorry. In Exhibit Number 5.

2 A. Oh, Exhibit 5.

3 Q. Yeah. Sorry. Do you see that's the --

4 A. I have to go back. We're on six. Is it okay if I go
5 back?

6 Q. Yeah, yeah, please do.

7 A. Sorry about that. Okay. Please repeat. I'm looking
8 at Exhibit 5. Can you please repeat the question?

9 Q. The -- the patient that you described disputed the
10 diagnosis of prostate cancer, can you point to any language in
11 Exhibit 5 that would make you believe that Secretary Becerra
12 would consider your group's treatment of that patient to
13 constitute discrimination?

14 A. Under the summary, it's numeric two where it says
15 discrimination on the basis of gender identity. The patient
16 denies that they are male, I could very well suffer under that
17 interpretation.

18 Q. Any other language in that document besides that
19 phrase discrimination on the basis of gender identity?

20 A. No. I think this's the very specific language that
21 concerns me.

22 Q. Are you aware of any other statements by Secretary
23 Becerra or HHS that -- that makes you concerned that Secretary
24 Becerra or HHS would consider your group's treatment of this
25 patient to be discriminatory?

1 A. Oh, I don't believe so.

2 Q. Do you believe that Secretary Becerra has a different
3 view from you about what it means to discriminate against a
4 patient on the basis of gender identity?

5 A. I couldn't speak to his opinion, but I could say he
6 definitely could have a difference of opinion from me if it
7 were expedient.

8 Q. Are you aware of anything that he or anyone at HHS
9 has said or written that would make you believe that Secretary
10 Becerra or HHS have a different view from you about what it
11 means to discriminate against a patient on the basis of gender
12 identity?

13 A. No.

14 Q. So we've talked about one situation where you're
15 concerned about being charged with discrimination where a
16 transgender patient denies a diagnosis based on a gender --
17 gender identity. Are there any other situations in which you
18 are concerned that you have done or might do something that
19 Secretary Becerra would consider to be discriminatory?

20 A. Nothing that I have done but I'm concerned it could
21 happen more frequently because it seems to be occupying a
22 little bit more time in the public conscious -- consciousness
23 and I believe we'll probably see more of these with increasing
24 frequency.

25 Q. What specifically are you concerned that you might do

1 in the future that Secretary Becerra might consider to be
2 discriminatory?

3 A. I'm concerned specifically with specific cancers such
4 as prostate or testicular cancer versus ovarian, endometrial
5 and endocervical or ectocervical cancers that are sex-specific
6 that would have to be properly diagnosed and properly treated.
7 I don't include breast cancer because males can, on occasion,
8 get breast cancer, not very commonly, but can.

9 Q. Is your -- is your concern about sort of situations
10 that may arise in the future all in the general situation of
11 diagnosing someone based on the organs or body parts that they
12 have and the transgender patient disputing that diagnosis?

13 A. Yes. That's correct.

14 Q. Okay. Do all the doctors in this country agree about
15 when it is appropriate to provide gender transition services to
16 transgender individuals?

17 A. Oh, gosh, I couldn't answer for other doctors. I
18 couldn't answer that.

19 Q. Do -- do all doctors in this country agree about
20 whether it should be legal to discriminate against patients on
21 the basis of gender identity?

22 A. I would think uniformly all physicians agree that
23 they should not discriminate, but their views on gender
24 identity and gender dysphoric disorder would be pretty nuanced.

25 Q. Different -- different doctors have different views

1 about gender identity?

2 A. I would think so. I'm almost assured that --

3 Q. What do you mean by that?

4 A. Well, I think if you put ten people in a room and ask
5 them the question you just asked me, you would get ten slightly
6 different opinions.

7 Q. Do -- do all doctors in this country have the same
8 views about the notification from HHS that you're challenging
9 in this case?

10 A. Can you --

11 MR. MITCHELL: Mr. Newman -- I'm sorry -- Mr.
12 Newman, I'm going to object to the form of the question because
13 the way you phrased it calls for speculation. There's no way
14 he can know what other doctors think. I'm sorry. Go ahead.

15 MR. NEWMAN: Sorry. Let me rephrase that.

16 Q. (BY MR. NEWMAN) Do you have any understanding about
17 whether all doctors in the country have the same views about
18 the notification from HHS that you're challenging in this case?

19 A. No. I have no understanding of that.

20 Q. Take a look back at Exhibit 4, which is the first
21 amended complaint. And in particular, please look at page ten
22 and paragraph 48, which is near the bottom of page ten.

23 A. I see it.

24 Q. Okay. Page 40 -- sorry. Paragraph 48 states, The
25 Court should therefore declare that Section 1557 does not

1 prohibit discrimination on account of sexual orientation and
2 gender identity, as Secretary Becerra claims, but that it
3 prohibits only sex discrimination, which means that provider
4 would have acted differently toward an identically situated
5 member of the opposite biological sex. Do you see that?

6 A. Yes.

7 Q. Do you believe -- strike that.

8 Do you have any understanding about whether all
9 doctors in this country would want The Court to issue a
10 declaration that Section 1557 does not prohibit discrimination
11 on account of sexual orientation and gender identity?

12 A. I couldn't speak for all of the physicians.

13 Q. Isn't it true that there are many lesbian, gay,
14 bisexual and transgender doctors in this country?

15 A. Sure. Yes.

16 Q. Do you believe that all of the lesbian, gay, bisexual
17 and transgender doctors in this country would want The Court to
18 issue a declaration that Section 1557 does not prohibit
19 discrimination on account of sexual orientation and gender
20 identity?

21 A. I don't think I could speak for anybody based even on
22 their sexual orientation on what their opinions would be.

23 Q. Are you aware that during the Trump administration
24 HHS took the legal position that you advocate in this case that
25 Section 1557 does not prohibit discrimination on account of

1 sexual discrimination and gender identity?

2 A. No, sir.

3 Q. Okay. I am going to introduce another exhibit.

4 (Exhibit 7 marked.)

5 Q. (BY MR. NEWMAN) Okay. I have introduced Exhibit 7.

6 This is a press release of the American Medical Association
7 dated May 10, 2021, titled AMA Statement on Biden Decision to
8 Restore Anti-Bias Protections. Do you see the exhibit?

9 A. I do.

10 Q. This press release is dated May 10, 2021. Is that
11 the same date that HHS issued the notification that you're
12 challenging in your lawsuit?

13 A. Oh, I'm not sure. I don't know.

14 Q. Take a look back at Exhibit 5, which is --

15 A. Let's see here. I'm looking at it.

16 Q. Do you see that, page one? It says, Dates, this
17 notification is effective May 10, 2021?

18 A. Yes. I see it. Yes. Around the same date.

19 Correct.

20 Q. Okay. And now back to Exhibit 7. The press release
21 beginning on page one reads, The following statement is
22 attributable to Susan R. Bailey, M.D., AMA president. The
23 Biden administration did the right thing by terminating a
24 short-lived effort to allow discrimination based on gender or
25 sexual orientation when seeking health care. As we said in our

1 letter PDF to the previous administration, the interpretation
2 was contrary to the intent and the plain language of the law.
3 It's unfortunate that such an obvious step had to be taken.
4 The AMA welcomes this common-sense understanding of the law.
5 This move is a victory for health equity and ends a dismal
6 chapter in which a federal agency sought to remove civil rights
7 protections. Do you see that?

8 A. I do.

9 Q. In this press release, is the American Medical
10 Association expressing support for the notification that you're
11 challenging is unlawful?

12 A. Well, I'm not sure. It sounds like it is, but I'm
13 not a hundred percent sure.

14 Q. In this -- in this press release, is the American
15 Medical Association advocating for a legal interpretation that
16 is different from the legal interpretation that you're
17 advancing in this lawsuit?

18 A. It could be, yes.

19 Q. Based on this press release, do you believe that
20 Dr. Susan R. Bailey, the president of the AMA, who is quoted in
21 this press release, would support or oppose your lawsuit?

22 A. Sounds like she might oppose it.

23 Q. All right. I'd like to introduce another exhibit.
24 I've introduced Exhibit 8 -- sorry.

25 (Exhibit 8 marked.)